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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Inventor(s): VESTERGAARD, Steven Erik; TSUI, Che-Wai; KOLIC, Edward
Title: DIGITAL MEDIA DISTRIBUTION METHOD AND SYSTEM
Serial No.: 09/980582 Confirmation No.: 5988
Filed: 5 March 2001
Examiner: To, Baotran N. Art Unit: 2135
Date: 25 August 2008

AFFIDAVIT

I, Steve Vestergaard, of WEST VANCOUVER, BRITISH COLUMBIA
CANADA, MAKE OATH AND SAY AS FOLLOWS:

1. I am the Chairman and Chief Executive Officer of Destiny Software Productions, Inc. (Destiny Software) and have held these positions with Destiny Software since Destiny Software's inception in 1991.
2. Destiny Software is the Assignee of US patent application No. 09/980,582.
3. I am the Chairman and Chief Executive Officer of Destiny Media Technologies, Inc. (Destiny Media) and have held these positions with Destiny Media since 1999. Destiny Media owns 100% of Destiny Software.
3. Destiny Software and Destiny Media are referred to collectively and individually herein as the Destiny Group.
4. The Destiny Group is a leading provider of secure digital content distribution systems and corresponding services for the media industry. The Destiny Groups sells its secure digital content distribution systems and corresponding services to a wide range of

content providing customers, including: Universal Music Group (UMG), EMI Capitol Music, Warner Music and Sony BMG, which are commonly referred to as the four major record labels.

5. The Destiny Group has sold secure digital content distribution systems and corresponding services which encompass by the invention claimed in US patent application No. 09/980,582 (the Claimed Technology) to protect digital media content for, and on behalf of, its customers.
6. Because the Claimed Technology has desirable characteristics for efficient, flexible and secure distribution of digital media content and because of the Destiny Group's sales and promotion of the Claimed Technology, the Destiny Group has become a recognized leader in the secure digital content distribution industry.
7. I am familiar with US patent application No. 09/980,582 as well as the nature of the secure digital media content distribution industry.

THE NEED FOR SECURE DIGITAL MEDIA CONTENT DISTRIBUTION

8. To the best of my recollection, since at least as early as 1997, there as been a need to ensure the protection of copyrighted digital media.
9. Attached as Exhibit A to this Affidavit is a true copy of an on-line press release entitled RIAA RELEASES YEAREND ANTI-PIRACY STATISTICS issued by the Recording Industry Association of America (RIAA) and dated 5 March 1998. The Exhibit A article indicates, *inter alia*, that:
 - (i) the RIAA sued three music archive sites on the internet;
 - (ii) the speed and ease of widely-transmitted information on the internet is capable of exponentially greater harm to copyright owners than traditional acts of piracy;
 - (iii)the RIAA saw a growing trend in the second half of 1997 of unauthorized pre-released recordings offered for download on the internet; and

- (iv) the RIAA sent notifications to hundreds of internet sites informing the internet sites that they were infringing the copyright of the RIAA's member companies.
10. Attached as Exhibit B to this affidavit is a true copy of an on-line press release entitled RECORDING INDUSTRY SUES NAPSTER FOR COPYRIGHT INFRINGEMENT issued by the RIAA and dated 7 December 1999. The Exhibit B article indicates, *inter alia*, that:
- (i) the RIAA sued the operators of the Napster internet file sharing service on 7 December 1999 for contributory and vicarious copyright infringement;
 - (ii) the RIAA alleges, and Napster admits, that Napster has made millions of mp3 music files widely available to Napster users around the world;
 - (iii) the RIAA alleges that the overwhelming majority of the files distributed using Napster are pirated; and
 - (iv) various recording artists and managers, including Sean Puffy Combs, allege that Napster allows users to steal from them.
11. Attached as Exhibit C to this affidavit is a true copy of an excerpt (p. 18) of an on-line report entitled Digital Music Report 2008 issued by the International Federation of the Phonographic Industry. The Exhibit C excerpt indicates, *inter alia*, that:
- (i) 20 music tracks are downloaded for every single track sold; and
 - (ii) a study by the Institute of Policy Innovation in 2007 projects losses to the U.S. economy of US\$3.7 billion due to illegal downloading.
12. Together, Exhibit A through Exhibit C demonstrate:
- (i) the existence of widespread piracy with respect to digital media content;
 - (ii) a corresponding need within the media distribution industry to protect digital media content against copyright infringement; and
 - (iii) the need for secure methods of digital media content distribution has existed since at least as early as 1997 and continues to exist.
13. A specific need within the general need to protect digital media content against copyright infringement involves the need to protect and encrypt media content that is distributed to particular types of users (e.g. to journalists, critics, radio stations and the

like) prior to the official release of the media content to the public. Media content distributed to these types of users prior to the official public release may be referred to as pre-release material.

14. The need to protect and encrypt pre-release material against copyright infringement has been felt since at least as early as 2000.
15. Attached as Exhibit D to this affidavit is true copy of an on-line article entitled UNRELEASED MADONNA SINGLE SLIPS ONTO NET published by CNET News.com on 1 June 2000. The Exhibit D article indicates, *inter alia*, that:
 - (i) the title track of Madonna's then upcoming album, *Music*, was made available on the internet well in advance of its release date;
 - (ii) other artists, such as Paul McCartney, U2, Metallica and Van Halen have had their works released online, impliedly in advance of their release dates; and
 - (iii) some of the pre-release availability of such media content comes from radio stations that received advanced copies for airplay.
16. Attached as Exhibit E to this affidavit is a true copy of an on-line article entitled LABELS TRY TO PLUG PROMOTIONAL MUSIC LEAK dated 28 December 2000. The Exhibit E article indicates, *inter alia*, that:
 - (i) record labels such as Universal Music Group's Universal Records and Warner Music Group's Reprise Records have identified journalists and radio stations as a source of leaking media content; and
 - (ii) watermarking technology is a technique which may be useful to identify where leaked media content may have originated but not to prevent such media content from being copied in the first place.
17. The need to protect pre-release media content continues to be felt in the music industry as media content leaked onto the internet is often made available to be downloaded without compensation for the copyright owner.

18. Attached as Exhibit F to this affidavit is true copy of an on-line article entitled DAYS OF THE LEAK published by Spin Magazine Online on 31 July 2007. The Exhibit F article indicates, *inter alia*, that:
- (i) a recorded copy of the White Stripes' album Icky Thump was available on the internet prior to its release;
 - (ii) Eric Garland, CEO of BigChampagne, which monitors online media, states Virtually one hundred percent of the time, someone seeking a popular song will get a free copy of it;
 - (iii) the hottest spots for pre-release content are public and private bit-torrent sites, which use the bit torrent protocol for distributing media content;
 - (iv) 75% of the [pre-release] leaks come from journalists, but artists rely on sending promotional copies because the corresponding reviews provide a boost in sales; and
 - (v) watermarking technology can be prohibitively expensive.
19. Attached as Exhibit G to this affidavit is true copy of an on-line article entitled MIXTAPE DJ'S LEAK LIL WAYNE'S CARTER III IN RESPONSE TO HIS 'F&\$K DJS' COMMENT published by sixshot.com on 31 May 2008. The Exhibit G article indicates, *inter alia*, that:
- (i) artist Lil Wayne's album Carter III was offered for free download by numerous mixtape DJ's; and
 - (ii) despite the availability of the Carter III album on the internet at the 31 May 2008 date that the article was published, the official release date of the album was not until 10 June 2008.
20. Attached as Exhibit H to this affidavit is true copy of an on-line article entitled THE NEW COLDPLAY ALBUM LEAKED ... published by nationalworld.wordpress.com on 9 June 2008. The Exhibit H article indicates, *inter alia*, that:
- (i) the Coldplay album Viva La Vida (or Death and All His Friends) was available on the bit torrent site ThePirateBay.com about two weeks before its scheduled release date; and
 - (ii) the author speculates that at least several million people have the full pirate album about two weeks prior to its scheduled release date.

21. Together, Exhibit D through Exhibit H demonstrate the existence of the need within the media distribution industry to secure pre-release digital media content against unauthorized reproduction and copyright infringement.

PRIOR ART AND PREVIOUS ATTEMPTS TO ADDRESS THE NEED

22. Because of the above-described long felt need within the media industry for secure techniques for digital media content distribution, I am of the opinion that there has been a strong incentive within the media industry to address this need.
23. One technique, which has been practiced by the RIAA and others, involves taking legal action music distribution services which provide unauthorized access to copyrighted content and individuals who infringe copyright in digital media. Exhibits A and B described above evidence legal action taken by the RIAA against Napster and other illegal media distribution websites.
24. Attached as Exhibit I to this affidavit is a true copy of an on-line article published by infoworld.com entitled RIAA SUES 532 'JOHN DOE' FILE SWAPPERS on 21 January 2004. The Exhibit I article indicates, *inter alia*, that:
 - (i) the RIAA commenced legal action against 532 computer users who were alleged to have illegally shared copyrighted content using peer to peer networks.
25. Attempts at legal action are unsatisfactory to media providers, because they are expensive, complex and can only be reasonably used against a small number of infringers.
26. Other digital media distribution systems have been disclosed in various public documents and/or are present in the marketplace, but have various drawbacks which have prevented them from gaining widespread industry acceptance. Examples of prior art digital media distribution systems which have failed to gain widespread industry acceptance include those described in:

- (i) US patent 7,103,574 (Peinado et al.) entitled "ENFORCEMENT ARCHITECTURE AND METHOD FOR DIGITAL RIGHTS MANAGEMENT";
- (ii) US patent No. 6,892,306 (En Seung et al.) entitled "DIGITAL CONTENT CRYPTOGRAPH AND PROCESS";
- (iii) US patent No. 6,052,780 (Glover) entitled "COMPUTER SYSTEM AND PROCESS FOR ACCESSING AN ENCRYPTED AND SELF-DECRYPTING DIGITAL INFORMATION PRODUCT WHILE RESTRICTING ACCESS TO DECRYPTED DIGITAL INFORMATION"; and
- (iv) US patent publication No. 2001/0011238 (Eberhard et al.) entitled "DIGITAL RIGHTS MANAGEMENT SYSTEM".

27. The drawbacks with the prior art attempts to address the need for secure distribution of digital media include, *inter alia*:

- (i) the delivery of media content is restricted to communication with the content supplying company and the content is encrypted (for each user) by the content supplying company at the time of delivery. This restriction on the source of the media content and the need to encrypt the content for each user before delivery can reduce the speed of file transfer if numerous users use the service simultaneously. The restriction on the source of the media content and the need to encrypt the content for each user before delivery can also be expensive for the content supplying company as it must maintain sufficiently high speed processing and sufficiently high bandwidth servers to facilitate adequate transfer rates. Systems making use of this model do not permit subsequent peer-to-peer transfer of the media content among users.
- (ii) encryption of the media content is based on an individual's characteristics (e.g. their driver's license number or their social insurance number or the like) rather than to the characteristics of a media playback device. This connection of the media content security to an individual's characteristics can be circumvented by other users with access to the individual's characteristics – e.g. a person with access to someone else's social insurance number can access the media content.
- (iii) encryption of media content using public/private (asymmetric) encryption key pairs. The main disadvantage of asymmetric encryption is that it is slow when

compared to symmetric key encryption. In addition, such asymmetric encryption techniques are based on the model described in section (i) of this paragraph – i.e. where the delivery of media content comes from the content providing organization – and therefore suffers from the disadvantages described above.

NON-OBVIOUSNESS

28. Features claimed in US patent application No. 09/980,582 were known individually prior to the 3 March 2000 priority date of US patent application No. 09/980,582. More particularly, according to the Examiner in the Office Action dated 27 March 2008:
- (i) at page 3 of the 27 March 2008 Office Action, the Examiner expresses the view that US patent 7,103,574 (Peinado et al.) disclose a method of distributing electronic media, the method comprising:
 - (a) receiving a file at a user computing device, the file comprising encrypted media content,
 - (b) requesting a decryption key from a remote server and receiving the decryption key from the remote server at the user computing device over a communication network, the decryption key itself encrypted at the remote server with a user key,
 - (c) responding to the receipt of the decryption key from the remote server at the user computing device by decrypting the media content at the user computing device using the decryption key, and
 - (d) wherein receiving the file at the user computing device comprises receiving the file from a remote computer over a communication network that includes the remote server from which the decryption key is obtained but through a communication path that does not include the remote server from which the decryption key is received;
 - (ii) at page 4 of the 27 March 2008 Office Action, the Examiner expresses the view that US patent No. 6,052,780 (Glover) discloses a computer file comprising an integral decryption engine and decrypting the content from the file using the integral decryption engine;

- (iii) at page 4 of the 27 March 2008 Office Action, the Examiner expresses the view that US patent publication No. 2001/001238 (Eberhard et al.) discloses the user key bonded to the user computing device by being based at least in part on one or more characteristics of the user computing device;
 - (iv) at page 5 of the 27 March 2008 Office Action, the Examiner expresses the view that US patent No. 6,892,306 (En Seung et al.) discloses the user computing device can use the user key to decrypt the decryption key; and
 - (v) at page 11 of the 27 March 2008 Office Action, the Examiner expresses the view that US patent No. 6,564,248 (Budge et al.) discloses that the file contains integral media playback software and playing the media content using the integral media playback software.
29. Notwithstanding the above-described long felt need within the media industry for secure techniques for digital media content distribution, the corresponding incentive within the media industry to address this need, the existence of prior art attempts within the media industry to address the need and the existence in the prior art of the of the individual elements of the invention claimed in US patent application No. 09/980,582, the combination of features recited in the claims of US patent application No. 09/980,582 was not available to the public until the Destiny Group began to market the Claimed Technology.
30. The Claimed Technology addresses the long felt need to provide methods for securely distributing digital media, to prevent leaks of pre-release material and to prevent internet-based copyright infringement by providing a method for distributing digital media content which involves a combination of:
- (i) receiving a file comprising an integral decryption engine and encrypted media content at a user computer;
 - (ii) requesting a decryption key from a remote server;
 - (iii) receiving the decryption key from the remote server at the user computer over a communication network, the decryption key itself encrypted at the remote server with a user key which is based at least in part on one or more characteristics of the user computing device such that only the user computing device can use the user key to decrypt the decryption key; and

- (iv) upon receipt of the decryption key at the user computer:
 - (a) using the user key to decrypt the decryption key at the user computer;
 - (b) decrypting the media content at the user computing device using the integral decryption engine and the decryption key; and
 - (v) the file received at the user computing device is received from a remote computer through a communication path that does not include the remote server from which the decryption key is received (i.e. the file and the decryption key are received from different sources).
31. In my opinion, the combination of features in the Claimed Technology would not have been obvious to a skilled artisan prior to the time that the Destiny Group began to market the Claimed Technology. If the combination of features in the Claimed Technology was obvious to a skilled artisan at that time, then surely such an artisan would have presented the Claimed Technology to address the long felt need for methods for secure digital content distribution as described above.

COMMERCIAL SUCCESS

32. Since it began marketing the Claimed Technology, the Destiny Group has enjoyed strong sales and the Destiny Group is now the market leader in secure digital media distribution.
33. In my opinion, the Destiny Group's commercial success is a result of the Claimed Technology. More particularly, the Claimed Technology has a combination of beneficial characteristics not found in any other similar product/service known to me. This combination of beneficial characteristics include, *inter alia*:
- (i) receiving a file comprising an integral decryption engine and encrypted media content at a user computer;
 - (ii) requesting a decryption key from a remote server;
 - (iii) receiving the decryption key from the remote server at the user computer over a communication network, the decryption key itself encrypted at the remote server with a user key which is based at least in part on one or more characteristics of

the user computing device such that only the user computing device can use the user key to decrypt the decryption key; and

- (iv) upon receipt of the decryption key at the user computer:
 - (a) using the user key to decrypt the decryption key at the user computer;
 - (b) decrypting the media content at the user computing device using the integral decryption engine and the decryption key; and
- (v) the file received at the user computing device is received from a remote computer through a communication path that does not include the remote server from which the decryption key is received (i.e. the file and the decryption key are received from different sources).

- 34. Attached as Exhibit J to this Affidavit is a true copy of a press release dated 8 October 1999 entitled DESTINY ANNOUNCES DISTRIBUTION OF MP3 MUSIC WITH VALUSOFT, GT INTERACTIVE, WALMART - FEATURES NE RELEASE BY BILL WYMAN IN UNIQUE SECURE MP3 FORMAT. The Exhibit J press release evidences the first sales by the Destiny Group to Walmart of product encompassing the Claimed Technology. Sales of the Claimed Technology pursuant to the agreement referred to in the Exhibit J press release were in the vicinity of CA \$40,000.
- 35. Attached as Exhibit K to this Affidavit is a true copy of a press release dated 6 January 2000 entitled RICH MEDIA MP3 PLAYER FOR NINTENDO® GAMEBOY T LAUNCHED AT 2000 INTERNATIONAL CES SHOW. The Exhibit K press release evidences further sales of the Claimed Technology to Nintendo for use in Nintendo's SongBoy product for use in its GameBoy console to allow users to download music from the internet.
- 36. Attached as Exhibit L to this Affidavit is a press release dated 13 October 2000 entitled DESTINY MEDIA TECHNOLOGIES MEETS MILESTONES FOR YEAR END. The Exhibit L affidavit evidences that sales of the Claimed Technology throughout the fiscal year ending 31 August 2000 were CA \$110,000.
- 37. Because of the Destiny Group's sales and promotion of the Claimed Technology, the Destiny Group was invited to join the Secure Digital Media Initiative (SDMI). Attached


as Exhibit M to this Affidavit is a press release dated 13 June 2000 entitled DESTINY MEDIA TECHNOLOGIES JOINS THE SDMI. The Exhibit M press release indicates that the Destiny Group was invited to join the SDMI with other major media companies including BMG Entertainment, EMI Capitol Music, Sony Music, Universal Music, Warner Music, AT&T, AOL, Compaq, Dolby Labs, Lucent, Napster and Sun Microsystems.

38. Because of its position in the SDMI and because of the advantageous features of the Claimed Technology, the Destiny Group continues to enjoy strong sales of its secure digital media distribution technology. Attached as Exhibit N to this Affidavit is a press release dated 22 July 2008 entitled MAJOR BROADCASTERS IN NORTH AMERICA EMBRACE PLAY MPE[®] AS DIGITAL DELIVERY STANDARD. The Exhibit N press release indicates, *inter alia*, that:
- (i) current customers of the Destiny Group include: Universal Music Group, EMI Music Group, Sony BMG and Warner Music Group;
 - (ii) the Destiny Group has over 22,000 users and over 80,000 songs from more than 1,000 record labels.
39. The Destiny Group's market share is significantly greater than that of its competitors. Attached as Exhibit O to this Affidavit is a true copy of a portion of a press release issued by the Destiny Group's competitor Yangaroo Inc. on 14 April 2008 and entitled MANAGEMENT DISCUSSION AND ANALYSIS FOR THE YEAR ENDED DECEMBER 31, 2007. The Exhibit O press release indicates that Yangaroo has used its Digitla Media Distribution System (DMDS) for more than 11,000 and 500 record labels.
40. Comparing, the statistics in Exhibits N and O indicates that the Destiny Group's sales have approximately seven times the number of songs and double the number of record labels. This comparison is indicative of the Destiny Group's strong market position which is attributable at least in part to the Claimed Technology.

CONCLUSIONS

41. In my opinion, having regard to the facts shown by the evidence adduced as part of this Affidavit, the long felt need in the media industry for secure methods of digital media content delivery, the unsuccessful attempts to address this need by other parties and the commercial success of the Destiny Group indicate that it would not have been obvious for a skilled artisan to develop with invention recited in the claims of US patent application No. 09/980,582.

SWORN BEFORE ME at the City
of Vancouver, in the Province of
British Columbia, Canada, this
25th day of August, 2008.


Richard A. Johnson

Commissioner for taking
Affidavits in the province of
British Columbia

RICHARD A. JOHNSON
Barrister & Solicitor
480 - 601 West Cordova St.
VANCOUVER, B.C. V6B 1G1



Steve Vestergaard

THIS IS EXHIBIT A TO THE AFFIDAVIT OF

Steve Vestergaard

SWORN BEFORE ME THIS

25th day of August, 2008

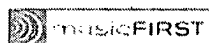
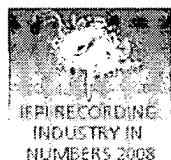

A Commissioner for taking Affidavits
or a Notary Public

RICHARD A. JOHNSON
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NEWS ROOM



Who We Are
What We Do
News Room
Key Statistics
Good and Beautiful
Links for Parents and Educators
Piracy Online and On the Street
For Students Doing Reports



March 05, 1998

[BACK](#)

RIAA Releases Yearend Anti-Piracy Statistics

Internet Piracy Campaign In Full Swing; CD Piracy Remains A Threat

Washington, DC - The Recording Industry Association of America's yearend anti-piracy statistics indicate that while cassette piracy has dropped 80% over the last five years and cassette street vendors are dissipating, music piracy is rapidly moving towards the Internet and CD piracy. Highlights of the RIAA's 1997 anti-piracy efforts ran the gamut from suing three Music Archive Sites on the Internet, to conducting the largest criminal bootleg investigation in the RIAA's history, to confiscating a growing number of illicit CD-Recordables for the first time. And, the RIAA increased its interactions with its counterparts around the world that led to the seizure of hundreds of thousands of illicit CDs that originated in Europe and Latin America.

While the Internet and new technologies pose unparalleled opportunities for the industry, they also pose unparalleled challenges in copyright protection. Estimates indicate there are 91 million computers in the world connected to the Internet today and to meet the challenges of this developing environment, the RIAA focussed 80% of its anti-piracy resources last year to combat evolving forms of CD piracy and to protect copyrighted sound recordings in cyberspace.

"Last year proved that staying ahead of technologically advanced pirates presents a greater challenge than ever before," said Steve D'Onofrio, RIAA executive vice president and director of anti-piracy. "While we work to protect the artists, record companies and everyone else involved in the creative process, we remain committed to allocating the resources to educate Internet users. We will also continue to establish critical legal precedents before the technologies advance to the point that large scale online piracy runs rampant."

Challenging Online Piracy

Given the speed and ease of widely-transmitted information on the Internet, the potential harm to copyright owners is exponentially greater than traditional acts of piracy, according to D'Onofrio. For instance, Music Archive Sites (MP3 sites) can contain hundreds of different, unauthorized copyrighted sound recordings that can be downloaded in a matter of minutes.

During the second half of the year, the RIAA saw a growing trend of unauthorized pre-released recordings offered for download on the Internet. Popular groups and individual artists, such as Pearl Jam, Van Halen, Madonna and Eric Clapton found their songs circulating over the Internet months before the official release date. The RIAA worked with the record labels, the artists and their managers, to notify the site operators and servers about the legal implications of their actions. In many cases, the sound files were removed within minutes.

Last year, the RIAA expanded its staff to include a team of specialists to monitor the Internet. In addition, the association is using an automated web crawler to electronically scan the Internet.

In 1997, the RIAA sent notification regarding hundreds of Internet sites informing them that they were infringing member companies' rights. The overwhelming majority were promptly shut down. The few remaining sites are seeking proper licensing or removing unlicensed recordings. The majority of the sites that came down were using MP3 technology, an advanced compression technology that allows users to download, and in some cases, upload hundreds of full-length, near CD-quality sound recordings, without the permission of the copyright holder.

In the latter part of the year, the trade group specifically addressed the growing problem of Music Archive Sites on university servers by initiating a college Internet Copyright Campaign to inform students and administrators about the legal implications of copyright infringement.

In June, the RIAA filed civil actions against three Music Archive Sites for the unauthorized reproduction and distribution of sound recordings. In each of these cases federal courts issued decisions and consent judgments in favor of the RIAA's position.

CD Piracy Moves Toward Uncharted Territory

While total seizures of CDs declined in 1997, the RIAA continues to view CD piracy as a serious problem. As a result of Operation Goldmine in March, 13 individuals were arrested and approximately 800,000 bootleg CDs were confiscated. In December, the defendants were sentenced to prison, fines and community service. According to The Washington Post, local record retailers that had carried bootlegs saw their supplies dwindle in the wake of Operation Goldmine. As for the remaining bootlegs, prices more than doubled and the retailers complained that "the big (bootleggers) with the best quality CDs are pretty much out of business."

As a result of new and inexpensive manufacturing technologies, 1997 was the first year the RIAA saw a significant number of CD-Recordables (CD-R) in the pirate marketplace. (CD-R hardware costs begin around \$400 and the blank discs are less than \$1.) Pirate and bootleg CD-Rs are easy to spot as major record companies generally do not release product in this format: CD-Rs are typically gold on one side with a greenish tint on the non-graphic, or "read-only" side, and pirate and bootleg versions are most often found in general variety stores, for sale by street vendors or at flea markets.

Although the association's CD Plant Education Program has successfully enabled CD plants around the country to recognize illicit orders, the RIAA was forced to take legal action last year against Americ Disc, one of the country's largest CD manufacturing companies. In December, the trade group filed a lawsuit against the Canadian-owned company citing that a large volume of unauthorized CDs -- mostly confiscated by law enforcement from raids around the country -- were traced back to Americ Disc. In a separate action earlier in the year, the Asian Crime Unit of the Los Angeles County Sheriff's Department, assisted by the RIAA, confiscated more than 39,000 counterfeit CDs from the first "underground" CD plant the RIAA has ever uncovered.

936,190 illicit CDs were seized in 1997, indicating a 38% drop from 1996. However, overall seizures have increased 98% since 1994.

442 unauthorized CD-Rs were confiscated last year, 355 of which were bootleg, the remainder of which were pirate. According to D'Onofrio, unauthorized CD-Rs in the pirate marketplace are a trend the RIAA expects to see continue throughout 1998.

Piracy Crosses International Lines

As advances in manufacturing technology, communication and transportation continue to facilitate a global pirate marketplace, last year the RIAA stepped up its anti-piracy efforts with its international counterparts. In September, the MIDEF Latin American and Caribbean Music Conference was held in the United States for the first time. Thanks to a well-coordinated effort between the RIAA, the Latin American music organizations and the Miami Beach Police Department, a successful piracy campaign was implemented specifically to thwart pirates at the conference. As a result, an Italian bootlegger who was selling large quantities of bootleg CDs at the conference was arrested. In addition, throughout the year the RIAA and FLAPF (Federacion Latinoamericana de Productores de Fonogramas y Videogramas) conducted several joint investigations in Florida, Ecuador and Chile resulting in the confiscation of more than 9,000 unauthorized CDs. According to D'Onofrio, "Piracy crosses international borders. It's no longer an issue of 'our problem or their problem' -- the fight against piracy is now a coordinated global recording industry effort."

When pre-released songs appeared on the Internet last year on servers located in other countries, the RIAA worked with the International Federation of the Phonographic Industry and the Canadian Recording Industry Association to have the songs removed as quickly as possible. Combined efforts and around the clock monitoring impeded the activities of these online pirates.

Other Points Of Interest

As several major record companies released legitimate compilation packages into the marketplace, music pirates followed suit and before the end of the year, the RIAA raided a large factory producing only pirate compilations. In November, 15,000 DJ compilations and 200,000 insert cards were confiscated in Brooklyn. In December, the owner of a DJ service and supply company was arrested for producing and distributing unauthorized "For DJ Only" compilations.

Counterfeit and pirate cassette seizures dropped 62% in 1997. The decline is largely a result of a crackdown on raw materials suppliers over the last couple of years by the RIAA. In May, three raw materials suppliers received the longest combined prison terms ever handed down in a single case for music piracy. Consequently, the number of counterfeit cassette labels recovered in 1997 fell by 97%.

Of the seven factories raided this year, two were using CD-R machinery to manufacture CDs -- the newest technology utilized by pirates; four of the factories were using traditional means to produce counterfeit and pirate cassettes; and the last was a bootleg music video factory. Without intervention from the RIAA, these factories combined had the potential to pump 4.2 million CDs, 3.1 million cassettes and more than 15,000 videos into the marketplace a year.

The RIAA is a trade association whose members create, manufacture and/or distribute approximately 90% of all legitimate sound recordings produced and sold in the United States. The RIAA investigates the illegal production and distribution of pirated sound recordings that cost the U.S. domestic music industry approximately hundreds of millions of dollars a year. Consumers and retailers can report suspected music piracy to the RIAA by dialing a toll-free hotline, 1-800-BAD-BEAT or sending email to badbeat@riaa.com.

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The Recording Industry Association of America is the trade group that represents the U.S. recording industry. Its mission is to foster a business and legal climate that supports and promotes our members' creative and financial vitality. Its members are the record companies that comprise the most vibrant national music industry in the world. RIAA® members create, manufacture and/or distribute approximately 90% of all legitimate sound recordings produced and sold in the United States. In support of this mission, the RIAA works to protect intellectual property rights worldwide and the First Amendment rights of artists; conducts consumer, industry and technical research; and monitors and reviews state and federal laws, regulations and policies. The RIAA® also certifies Gold®, Platinum®, Multi-Platinum™, and Diamond sales awards, as well as Los Premios De Oro y Platino™, an award celebrating Latin music sales.

Contact:

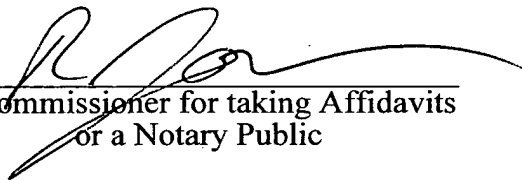
Jonathan Lamy
Cara Duckworth
Liz Kennedy
202/775-0101

THIS IS EXHIBIT B TO THE AFFIDAVIT OF

Steve Vestergaard

SWORN BEFORE ME THIS

25th day of August, 2008


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Recording Industry Sues Napster for Copyright Infringement

Washington, DC - The RIAA announced today that, acting on behalf of its member companies, it has filed suit against Napster, a company the RIAA has alleged is operating as a haven for music piracy on the Internet. "We love the idea of using technology to build artist communities, but that's not what Napster is all about. Napster is about facilitating piracy, and trying to build a business on the backs of artists and copyright owners," said Cary Sherman, Senior Executive Vice President and General Counsel, RIAA.

The lawsuit, filed in the U.S. District Court, Northern District of California, charges Napster with contributory and vicarious copyright infringement and related state laws. RIAA alleges in its filing that Napster has created, and is operating, a haven for music piracy on an unprecedented scale. By its own admission, the company is responsible for making millions of MP3 files widely available to countless Napster users around the world. As alleged by the RIAA in its complaint, the overwhelming majority of those recordings are pirated.

Napster has claimed it is trying to promote unknown artists, but its own Web site advertised that, with Napster, "you can forget wading through page after page of unknown artists" and "you'll never come up empty handed when searching for your favorite artist again!"

"Many companies on the Internet are promoting artists without also trading in pirated music files," Sherman said. "Companies like UBL, IUMA, Farm Club and MP3.com prove that there are many creative ways to promote new artists online without infringing on the rights of artists and copyright owners." Pirated copies of the recordings of every artist on the current Billboard charts can be located and downloaded from Napster.

According to the complaint, Napster is similar to a giant online pirate bazaar: users log onto Napster servers and make their previously personal MP3 collections available for download by other Napster users who are logged on at the same time. Napster provides its users with all the facilities and means to engage in massive copyright infringement. For example, Napster provides users with a hub of central computer servers to which they connect; a continuously updated database of "links" to millions of pirated recordings; software that allows fast, efficient identification, copying and distribution of the pirated recordings; and a host of other services -- all of which enable and encourage Napster users to download millions of pirated songs as well as make available their own music library for others to copy. Because Napster creates its links from the personal MP3 collections of Napster users, without Napster, these infringements would not be taking place at all. In exchange for free service and facilities to its users, Napster is building an extensive user base presumably in an effort to attract advertising and investment dollars.

"Litigation is never our first choice," Sherman said. "After a random sampling of thousands of recordings available on Napster revealed that the overwhelming majority of recordings Napster was making available were pirated, we contacted the company a number of times, including in writing. But the same recordings we advised Napster were infringing then, are still available today. Online or offline, a business model based on pirated music is simply not fair. No other service on the Net has generated as many calls of outrage from artists, managers and artists' representatives and others representing the music community's interests."

The RIAA is a trade association whose members create, manufacture and/or distribute approximately 90% of all legitimate sound recordings produced and sold in the United States. One of the organization's primary missions is to safeguard the intellectual property rights of recording artists and member companies.

###

Editor's Note: Statements of support from artists and managers are attached below.

ARTIST/MANAGER QUOTES REGARDING NAPSTER

"It is the single most insidious website I've ever seen... it's like a burglar's tool." -- Ron Stone, Gold Mountain Management (represents Bonnie Raitt, Tracy Chapman, Ziggy Marley and other artists)

"Everyone I know is excited about all the possibilities the Internet has to offer. As a musician, the Internet has made it possible for me to share my music with people that could have never been reached by conventional methods. It has been taboo for artists to speak out concerning the business side of their music. The fear has been that the buying public, as well as other artists, would perceive this concern as greed, and that the artists' sole purpose for creating was the money. This perception has silenced many artists concerning MP3 and Napster. The silence must end. As a child I created music to express my inner thoughts and feelings, and that purity has stayed with me throughout. The day I decided to share my music with the world, was the day I decided to walk the fine line between art and commerce. I have been blessed in that I do what I love and can support my family with what I create. When my music is given away, as taboo as it is for me to say, it is stealing. I need not defend my motives for making music, but the distribution of my music has made me business conscious. I have decided to sell my music to anyone who wants it, that is how I feed my family, just like a doctor, lawyer, judge, or teacher. Not to insult anyone's intelligence, but my music is like my home. Napster is sneaking in the back door and robbing me blind." -- Scott Stapp, lead singer/ lyricist for Creed

"With the increasing accessibility of on the Internet, and the new technology available on it, there must be a matching increase in responsibility. Without public accountability, this responsibility reverts to groups like the RIAA to seek out those who are misusing the advances in technology and to the courts to adapt and enforce the law. Napster is allowing people to disregard copyright laws because they were not written in the spirit of today's technology. These copyright laws are the only things that protect what musicians do for a living; write songs. Napster is allowing people to steal these songs." -- Jeff Cameron, Jeff Hanson Management & Promotions (represents Creed and other artists)

"I couldn't believe it when I found out that this Napster was linking thousands of people to the new Notorious BIG album "Born Again," a week before it even hit the streets. This album is a labor of love from Notorious BIG's friends to the man, his kids, the rest of his family and everyone else whose lives will never be the same since BIG passed. BIG and every other artist Napster abuses deserve respect for what they give us." -- Sean "Puffy" Combs, CEO, Bad Boy Entertainment, Inc.

Dixie Chicks and Senior Management are huge fans of the Internet and its possibilities. While there are great efforts being made to ensure that the rights of the artists and songwriters are protected, Napster's apparent way of doing business sets those efforts way back. If the Internet thieves are not stopped or better regulated, it not only robs current artists but might have even more serious repercussions for the next batch of artists. I support and applaud the RIAA on their efforts to make sure that Internet companies are not stealing the rights of the people who make the music. -- Simon Renshaw, Senior Management (personal manager of the Dixie Chicks)

#####

The Recording Industry Association of America is the trade group that represents the U.S. recording industry. Its mission is to foster a business and legal climate that supports and promotes our members' creative and financial vitality. Its members are the record companies that comprise the most vibrant national music industry in the world. RIAA® members create, manufacture and/or distribute approximately 90% of all legitimate sound recordings produced and sold in the United States. In support of this mission, the RIAA works to protect intellectual property rights worldwide and the First Amendment rights of artists; conducts consumer, industry and technical research; and monitors and reviews state and federal laws, regulations and policies. The RIAA® also certifies Gold®, Platinum®, Multi-Platinum™, and Diamond sales awards, as well as Los Premios De Oro y Platino™, an award celebrating Latin music sales.

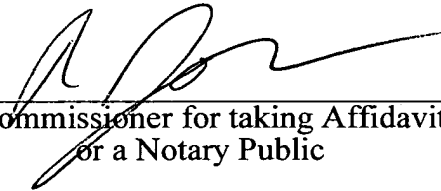
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Section 4:

Copyright Theft – The Impact and the Response

Unlicensed music and the unfair competition it imposes on legitimate services is the biggest challenge for the music business today

The greatest problem in "monetising" digital music has been its ubiquitous availability unlicensed and for free. Tens of billions of illegal music files are traded annually worldwide at an estimated ratio of 20 illegal downloads for every track sold. This has had a major impact on the development of legal services, holding back growth in the whole digital sector.

The Institute of Policy Innovation study 'The True Cost of Sound Recording Piracy in the US Economy' projected losses from illegal downloading worldwide to US record companies at US\$3.7 billion (August 2007).

Other research has focused on the specific impact of illegal downloading on buying behaviour. Italy's Luigi Einaudi Foundation in 2007 found that 30 per cent of P2P users bought fewer CDs and DVDs, while only six per cent said they bought more CDs. In Australia, research undertaken for ARIA (February 2007) shows that 57 per cent of P2P downloaders rarely or never purchase the music they download – pointing to straight substitution of legitimate sales. Numerous studies in different markets confirm the finding that the effect of illegal downloading on CD buying is overwhelmingly negative.

Digital piracy in Latin America has expanded rapidly. It is estimated that 2.6 billion illegal music files are downloaded in Mexico and another 1.8 billion in Brazil per year (Ipsos research). Online piracy has hit the core music buying population in the region – research in Mexico shows that 64 per cent of music downloading is carried out by consumers in the wealthier ABC economic categories, with similar findings in Brazil. In 2007 the Mexican market dropped by an estimated 25 per cent and Brazil fell by an alarming 50 per cent in the first half of 2007.

Japan Confronts Mobile Piracy

The success of Japan's mobile music business has had a flip side. Research in 2007 by the Recording Industry Association of Japan (RIAJ) found that mobile piracy was already becoming a very significant problem. The research highlighted the following:

- More than a third (37%) of mobile internet users frequently obtain illegal music via their mobile phone. This figure rises to 65 per cent among the younger demographic.
- Nearly 400 million illegal music files were downloaded in a year.
- Nearly 80 per cent of users who obtain illegal music files are doing it with no sense of guilt.

The industry has been quick to respond to the threat. In 2007, RIAJ developed special technology which allows the tracking of illegal uploading. Service providers are now receiving a number of "cease and desist" notices relating to infringing content and four criminal prosecutions have already resulted against illegal uploaders.

RIAJ is launching the biggest-ever education campaign about mobile piracy in March 2008, with support from government, mobile operators and music right holders' organisations.

In Europe, Spain and the Netherlands have a huge online piracy problem resulting in underperformance of their legitimate market sector. According to Jupiter Research, over a third (35%) of all internet users are now regularly file-sharing infringing music in Spain and 28 per cent in the Netherlands. A new study by the Spanish Ministry of Culture (October 2007) shows that five million Spaniards, or 13 per cent of the population, have downloaded music illegally in the past year.

China, with nearly as many broadband users as the US and little effective enforcement, is one of the biggest sources of illegal downloads in the world. A legitimate music market of only US\$74 million – less than one per cent of global sales – is choked by a digital piracy rate of over 99 per cent.

The country is hosting some very large unlicensed music delivery services that deeplink to unauthorised song files and derive advertising revenue from doing so. Such services account for the majority of online music piracy in the country. Large, listed companies such as Baidu and Yahoo China all offer such unauthorised services that are available throughout the world and particularly popular in Asia.

Securing proper enforcement against internet piracy in China is one of the recording industry's top priorities. In December 2007, a Beijing court confirmed that Yahoo China was acting illegally by facilitating mass copyright infringement. This verdict sets a precedent for similar services across the country to heed.

"The fact is that in a commercial culture that doesn't protect intellectual property, today's violator is tomorrow's victim. There are no long-term winners from growing intellectual property theft."

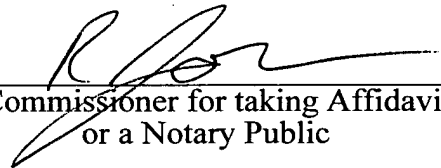
Peter Mandelson, EU Trade Commissioner

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Unreleased Madonna single slips onto Net

By John Borland

Staff Writer, CNET News.com

Published: June 1, 2000 5:00 PM PDT

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December 7, 1999

Pop singer Madonna weighed in this week on the Net music piracy wars after a copy of an unreleased single found its way into the music-swapping Napster community and onto a few MP3 Web sites.

The title track of the singer's upcoming album, "Music," apparently has been leaked onto the Web well in advance of its release date. And the singer is not amused.

"This music was stolen and was not intended for release for several months. It is still a work in progress," Madonna's manager, Caresse Norman, said in a statement. "Those sites that offered a download of Madonna's music are violating her rights as an artist."

Madonna's recording label, Warner Bros. Records, followed with a stiffer warning.

"Any site that posts or makes available our copyrighted material without our consent runs the risk of civil and criminal prosecution," the label said.

But in Napster's case, at least, the threat borders on redundancy.

Warner Bros. Records is already suing Napster for the more generic availability of all the label's music through the software's service. The label is part of the Recording Industry Association of America coalition that first launched legal action against Napster in December.

In that case, the industry is asking for damages that could mount into the billions of dollars.



Madonna joins a long list of major-label artists who have seen their work leak onto the Net in advance of release dates. Fellow luminaries such as Paul McCartney, U2, Metallica and Van Halen all have seen songs released online, often through radio stations that received advance copies for airplay.

Most recently, popular rapper Eminem joined fellow Napster foes Metallica and Dr. Dre in public condemnation of the service after his own newly released album quickly began being traded through the service.

However, the unauthorized version didn't prevent that album from selling more than 1.7 million copies in the first week of its release, jumping to the top of U.S. pop charts.

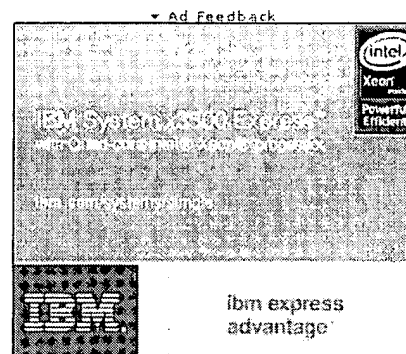
Metallica and Dr. Dre remain the only artists who have sued Napster on their own. No word was immediately available as to whether Madonna's management has threatened Napster specifically with her own similar lawsuit.

Many of the Napster users who have been caught in the crossfire between Metallica and the software company found themselves allowed back onto the service today.

Nearly 30,000 people had appealed the companies' decision to ban them from using the software, arguing that Metallica had misidentified them as potential music pirates.

Under federal copyright law, Metallica had to individually sue those users if they were to be kept off the service indefinitely, and to date, the band has not been willing to take that step.

People who were recently barred from Napster as a result of a similar action from Dr. Dre are in the middle of their own appeals process.



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Thursday, December 28, 2000

Labels try to plug promotional music leak

A 4 A

"...First, the major label groups attempted to thwart online music piracy by going after such file-swapping companies as Napster and Scour. Now, they've turned their attention to what they believe is one source for leaking their products -- journalists. Universal Music Group's Universal Records and Warner Music Group's Reprise Records are experimenting with digital watermarking technology to track pre-release albums sent months before their commercial street dates to thousands of music journalists and radio stations for review purposes.

Through watermarking, codes embedded in album tracks correlate to a number the label has assigned a CD. If the recipient of that CD converts the tracks into MP3 files and posts them on the Web, the watermark allows label watchdogs to ascertain the origin of the illegal file. Additionally, Universal and Reprise have begun to stamp journalists' names on selected pre-releases. A code embedded in Universal CDs corresponds to the recipient's name. This method was used recently for the pre-release of the label's Godsmack album "Awake," which was sent to journalists with their name stamped on the CD and a blunt letter of explanation.

The letter, on UMG letterhead, warns that if the recipient uses the album in an "unauthorized manner," the label will use the watermark "to match the misappropriated sound records to the record they were originally embodied on, identify the recipient of that particular record and take the appropriate action." Now in a trial period, UMG has watermarked albums from such high-profile groups as Godsmack, 3 Doors Down, Boyz II Men and 98%.

Advance copies of Reprise's Green Day CD "Warning" had journalists' names stamped on them, but Reprise's watermarking is in an earlier trial phase than the UMG initiative and cannot trace MP3 files to a specific journalist. The watermark number correlates only to the label department -- promotions, corporate, radio or A&R -- to which the advance copy was issued, a WMG spokesman said.

"If the (album) shows up on Napster, it's easy to detect the number, and we just might give a call to the person and say, 'Your copy got on Napster. How did that happen?' " Kenswil said. "It's not necessarily that the person is doing it themselves, but if they review it, they might give it to a friend or sell it to a used-CD store..."



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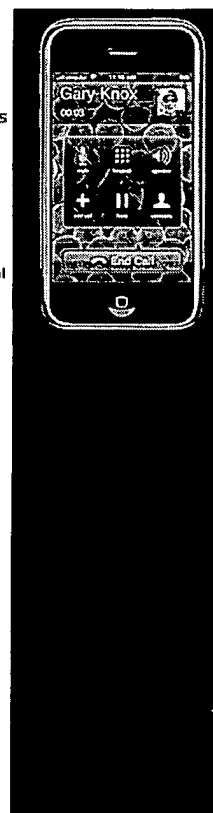
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MAGAZINE

Days of the Leak

Despite labels' efforts to keep new music under wraps, it's no longer a question of *if* an album will appear online before its official release date, but rather when and how. Here's why.

BY DOUGLAS WOLK 07.31.07 3:00 AM



On the afternoon of May 30, Jack White called Chicago radio station Q101 in a very bad mood. The White Stripes' frontman was in Spain at the time, but he'd gotten word that the station's DJ Electra had played the band's *Lcky Thump* in its entirety a couple of hours earlier. The

album wasn't scheduled to be released for another three weeks, and now a murky copy that somebody recorded off the radio was racing around the Internet. So White called Electra to chew her out for "messing up the entire music business" and for leaking his record, even though it had obviously leaked already --

that's how Q101 got it.

The station's music director, Brett "Spike" Eskin, says that a fan from his DJ days in Philadelphia had sent him a link to a file of *Icky Thump*, which somebody -- no one's saying who -- had uploaded to the file-sharing transfer service YouSendIt. "We downloaded the record, I told Electra that we had it, and then I contacted [the White Stripes' label] Warner Bros. and told them that we had the record and were going to play it." Q101 often plays freshly leaked albums, and it had aired another Warner Bros. leak, Linkin Park's *Minutes to Midnight*, a few weeks earlier. This time, Spike says, the station's contact at the label "told me he'd never tell me not to do it, but that this was going to make his life hell."

"Our listeners want to hear new music as soon as it's available," says Electra. "We're just reacting to the way it's becoming available."

There used to be a sort of gentleman's agreement about new records: On the announced release date, they'd appear in stores, and magazines, newspapers, and radio stations would pretend that they'd suddenly sprung into existence on that particular Tuesday morning (or, in the case of a few big names, Monday at midnight). The only way to hear them earlier was to be in the music industry or a member of the press.

All that, of course, was before file-sharing became rampant -- not just through old-fashioned peer-to-peer services, but by virtue of new technologies that can spread recordings widely and quickly. Nowadays, there is no such thing as an album that can't be heard before its release date. Absolutely everything leaks. The question is when and how, and what that means for the future of music.



The headquarters of MediaDefender are in an upscale Santa Monica office park, just down the hall from Mantra Films Inc. (the corporate home of *Girls Gone Wild*). Near the entrance, there's a large room that belongs to the "leak team." On its walls are whiteboards with the airdates of popular TV shows written in erasable marker. The solemn-looking twentysomethings seated

in front of their terminals, most wearing headphones, are scanning the Internet -- file-sharing services, BitTorrent indexes, chat channels, newsgroups, blogs, whatever -- to identify exactly when stuff leaks.

The bread and butter of MediaDefender's business is interfering with unauthorized file-sharing: disseminating fake files, clogging uploaders' queues, disrupting downloads. To advertise their services, they provide record labels and film and TV studios with information on exactly when and where releases have leaked. But since everything leaks, what good does it do to know when? "Honestly, sometimes I wonder myself," says the company's president, Octavio Herrera. "But the labels always want to be the ones to tell the management and artist that their music has leaked."

Other companies offer similar content-protection services, including Macrovision, MediaSentry, and Web Sheriff, whose specialty is sending polite please-take-this-down-thanks e-mails. But no matter how many download attempts they manage to foil, these operations still act as nothing more than a speed bump. Eric Garland, CEO of BigChampagne, which monitors online media, says the company's research has determined that someone hell-bent on finding a record won't be discouraged by hassle. "Virtually one hundred percent of the time, somebody seeking a popular song will get a free copy of it," he says.

The technological advance that made new-album leaks universal was the rise of BitTorrent, a protocol that makes it very easy to download entire albums in high-quality audio. The hottest spots for pre-release leaks are public torrent-tracker sites such as the Pirate Bay, Torrentspy, and TorrentReactor, as well as the private, password-protected Demonoid, TorrentLeech, IndieTorrents, and the British site OiNK, which practically has a velvet rope around it. OiNK is accessible strictly by invitation, meticulous about the quality of the files its members offer, and quick to bounce patrons who don't abide by its stringent rules, which demand that members upload as much as they download. And for the anonymous and secretive founders of the site, the first rule of OiNK is: You do not talk about OiNK.

More recently, services like YouSendIt, Megaupload, and

RapidShare have made it simple to upload an entire album as a single zipped file. Album blogs, or .rar blogs, mostly set up on anonymity-friendly services like Blogger, have been popping up like mushrooms; some write a little about the records they're posting, but others just stick up cover art, a track listing, and a download link for dozens of albums a day. And there are bulletin boards and LiveJournal groups devoted to posting download links to new albums as soon as they surface. "I love music; what I don't love is having an album hyped to be the best ever, then buying it to find out it's a dud," writes the anonymous curator of one album blog, the Leak Source, by way of justification.

Of course, the old-guard industry is freaking out about this; neither Capitol, Interscope, nor Warner Bros. would comment on the record for this story. Increasingly, advance copies of major artists' releases are few in number and carefully guarded, even if it's at the expense of long-lead press coverage. The new Linkin Park album, for instance, wasn't given to anyone at all -- reportedly, no one but the band members and their manager had copies before the album was sent off to the plant. Despite the extra security, *Minutes to Midnight* still leaked 11 days early (after a CD is manufactured in bulk and sent out to distributors two weeks or so before the official release date, there's no containing it) but sold a healthy 623,000 copies its first week. Would that number have been different if it had leaked even earlier? "I don't think anyone's come up with a direct correlation as far as how it affects numbers," says Martin Hall, publicist for Merge Records, whose big releases for the year, Arcade Fire's *Neon Bible* and Spoon's *Ga Ga Ga Ga Ga*, both leaked more than a month before their release dates.

Even though one industry source claims that 75 percent of leaks come from journalists, most artists rely on the boost they get from reviews, so they need to send out promotional copies. The major labels (and some well-heeled independents with a high-profile release to protect) now regularly resort to digitally "watermarking" advance copies, whose audio is encoded with a signal identifying each individual copy or rendering the album unplayable on a computer. That can get pricey -- according to Aaron Sperling, operations manager of the watermarking firm Sonic Arts, the process can run \$4.60 a disc -- but it at least allows labels to trace where a leak originated by matching the encrypted code with the advance copy it was

assigned to. "Leaks come from all over," Sperling says. "Sometimes songwriters, sometimes press. But if it happens five to seven days before the release, the album is a finished copy from the warehouse, and that won't have a watermark."

Even if the culprit is found, there isn't much a label can do about it. "It's not like we're gonna hunt that person down and give him 50 lashes," says Hall. "We just get an idea where the leak came from and send that person a sternly worded e-mail. If we find some legitimate outlet that's putting up a track from the record, we'll ask them to take it down, but we can't track down every blogger." However, when three songs from Animal Collective's *Strawberry Jam* leaked in June, nearly three months early, a terse press release was issued stating that the guilty party had been forced to write a letter of apology to the label, Domino Records, and "got in more trouble than you care to hear about." So maybe public shaming is the last viable deterrent?

Though they may have less at stake than the majors, indie labels are able to see the bright side of inevitable leakage, or are at least more accepting of the new reality. "It's only gonna hurt you if your record sucks," says Hall. "The way we look at this, and I think the majority of our bands agree, is: It's getting the record out there and getting people talking about the album. We don't have to add to that discussion, we don't have to advertise that it's available, but if you put out a good record, people are still going to buy it." As an insurance policy of sorts, the Spoon album will be sold with a bonus disc intended to encourage die-hard fans who downloaded the record prematurely to pony up for the official version. Hall also notes that the fact that the Shins' *Winning the Night Away*, on Sub Pop, leaked more than three months before it was in stores "didn't seem to hurt them much -- it debuted at No. 2." (So, for that matter, did *Neon Bible*.)

Sub Pop A&R rep Stuart Meyer concurs. "The Shins album sold 118,000 copies its first week, which was beyond our expectations," he says. "Would it have sold more than that five or ten years ago? Probably -- but 118,000 for a band like that is pretty amazing."

Iron & Wine's new Sub Pop album, *The Shepherd's Dog*, isn't

due out till September 25, but it had already leaked by mid-June, appearing, as the Shins album did, on the Radiohead fan site ateaseweb.com. The leak, says Meyer, came from a watermarked press copy -- he's not saying whose -- and the accused is claiming it must have been somebody in his office who had stolen and then uploaded the album. "It's a bummer for the artist and for us," Meyer says, "but the days when nobody could hear a record until the release date are over. You have to look beyond the blog world; you have to appeal to people who aren't paying attention to leaks." And he's happy to note that the feedback has been great. "I was reading a thread about Iron & Wine on AbsolutePunk.net and was surprised that a lot of people on there want to wait for the album until September -- they don't want to be sick of it by the time the onslaught starts. I was kind of heartened by that." However, for the new Postal Service record, due Christmas Day, the label will take no chances and will, as Linkin Park and many major artists do, simply withhold the product altogether. "I bet we only send it to, like, five people," Meyer says. "I bet that record gets nowhere and no one hears it until December 25."

In any case, according to Q101's Spike, not even major labels necessarily object to a little black-market buzz. "I have an e-mail from the head of promotion at Capitol Records," he says, "with a printout of songs that we played from a leak of the Beastie Boys album [*The Mix-Up*], saying, 'Thanks for all the airplay, bro. I will never cease-and-desist you or tell you not to play any of my records.' The sentiment out there is, it's so hard to get songs on the radio now that if you're going to get that kind of publicity, you should probably just be thankful."

If labels can't stop the tide of early leaks, they can at least use the technology to their advantage. ("If you can't beat 'em, join 'em," says Sub Pop's Meyer.) The Nine Inch Nails songs that turned up on flash drives hidden in bathrooms on their European tour early this year were part of the band's viral marketing campaign -- if fans feel like they've gotten an illicit copy of a new song by their favorite artist, that just builds buzz. (Not that one hand necessarily knows what the other is doing. Q101, in fact, aired one of those Nine Inch Nails songs, "My Violent Heart," and got slapped with a cease-and-desist order from NIN's label, Interscope.) And although the labels are loath to cop to this increasingly common practice, leaks are also a

useful way to gauge the public's interest in songs without having to make the promotional investment an actual release requires. If a leaked MP3 doesn't stir up much interest on the Internet, it's probably smart for the artist to go back to the studio instead of shooting a video.

If there was ever really a battle over leaks, it's already been decided. Many hip-hop artists have gotten into the habit of releasing a steady trickle of material digitally, as soon as it's recorded. Radiohead have suggested they're thinking about doing the same, and the English band Ash recently announced that their new album will be their last recorded in a full-length format. Wilco's Jeff Tweedy told *Spin* earlier this year that he misses the "waiting for Christmas morning" anticipation that greeted old-fashioned release dates, "but at the same time, all the things people do to prevent [leaks] from happening just seem so counterproductive and just seem like so much wasted energy. I don't think bands should go out of their way to try and stop people from hearing their music."

There's a lyric from one of Tweedy's recent (and yes, leaked-months-before-release-and-no-they-didn't-mind) songs, "What Light," that puts it a different way:

*If the whole world's singing your songs
And all of your paintings have been hung
Just remember what was yours is everyone's from now on
And that's not wrong or right
But you can struggle with it all you like
You'll only get uptight.*

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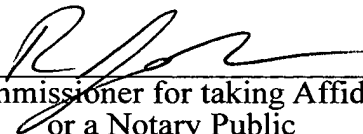
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Mixtape DJ's Leak Lil Wayne's Carter III In Response To His 'F&\$k DJs' Comment

Posted: 5/31/2008 4:26:58 PM by Black widow



Lil Wayne's recent comments about mixtape DJ's has caused various spinners from the mixtape industry to respond by leaking the rapper's latest album, *The Carter III*.

As reported earlier, Lil Wayne cursed out mixtape DJ's during a recent interview with *Foundation Magazine* for releasing mixtapes with his music without his approval.

"I created the mixtape game, but I'm not into that no more. I'm doing Dwayne. I'm against it. I'm anti-mixtape dude," Wayne told *Foundation Magazine*. "I don't know no mixtape DJ's. Fuck ya if you a mixtape DJ. I'm not into ya'll selling me out. I ain't with that. I'm on 25 Top 25 and I ain't even put out 25 mixtapes. Fuck ya'll! Fuck that piff! Fuck mixtape DJ's! Fuck all that!"

In response, DJ Doo Wop attacked Lil Wayne via a video which hit the internet yesterday (May 30). [Watch The Video]

Today (May 31), *Sixshot.com* received various e-mails from numerous mixtape DJ's calling out the rapper and offering free downloads of *The Carter III*.

"I'll be damned if I let any nigga get away with saying 'Fuck Me' without him facing some type repercussions! & nbs p; Including Lil Wayne! I gave him a pass when he kissed another man because that shit didn't affect me, but he's not sliding on this one," said one DJ via an e-mail. "Lil Wayne said 'Fuck Mixtape DJ's!' So now I'm about to show that boy the meaning of bootleg! Don't buy the new Lil Wayne album, download it for free."

The Carter III will be hitting shelves on June 10. Lil Wayne or his label has not released a comment addressing his comments or the leak.

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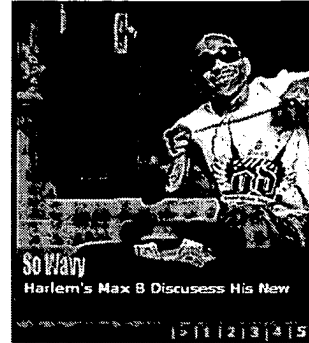
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The Current

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The New Coldplay Album Leaked...

June 9, 2008 in [Current Events](#), [music](#) | Tags: [music](#), [good music](#), [Coldplay](#), [Viva la Vida](#), [viva la vida or death and all his friends](#), [death and all his friends](#), [album](#), [leak](#), [torrent](#), [EMI](#), [Parachutes](#), [iTunes](#), [violet hill](#), [single](#) |

It's great news to read something like this in the news:

Coldplay's new album Viva La Vida has taken an unusual iTunes record, becoming the best-selling album pre-sale ever released in the history of Apple's music store.

But it's kind of tragic that the same article reveals that the album has leaked. I know, this isn't brand new news, but I want to write about it so I am. I mean, when I get called late at night with a friend yelling excitedly "The Coldplay album leaked!" I figure it's an event worthy of recording.

Back to the focus. The album has leaked...in a major way. Simply checking ThePirateBay.com (the only torrent website I've ever been told about) and seeing that thousands upon thousands of people downloading a half dozen different torrents all claiming to be Colplay's new album entitled "Viva La Vida (, or Death and All of His Friends)" (but I think they cut the second half of the title) was shocking. Looking at the "Top 100" list for music, the closest torrent numbers don't even compare. I can only assume, looking at the numbers, that at least several million people have the full pirated album now, about two weeks before the scheduled US release.

This has to be one of the biggest cultural leaks. It's huge. This is one of the most anticipated albums of the year from a band that is garnering a lot of media based just on how big they are. Just check out the opening lines from this news article (a little overstated in my opinion):

It is no wonder the music world is so eagerly awaiting the release of the new Coldplay album. Coldplay may very well be the last of the super acts.

The release of 'Viva La Vida or Death and All His Friends' is without a doubt the most anticipated release on the planet in some time. Maybe that is because Coldplay is the last of the great groups.

The article has an interesting thesis, to say the least. But their jumping-off point is sound. Coldplay is a huge band right now. One of the biggest, playing sold out show after sold out show. Headlining at Live8London alongside the reunited Pink Floyd and other Rock and Roll legends is probably getting to the highest point on the totem pole, at least that I can imagine. So when one of the world's biggest bands releases a new album, it's safe to assume it's going to be one of the worlds biggest selling albums.

And then the album becomes available for download for millions of people to access at no cost but the threat of an impending federal lawsuit.

So the band reacted by streaming the album on their MySpace page.

Not that releasing an album over the internet (with the band's permission, such as in this streaming case) isn't without precedent (Radiohead, Nine Inch Nails). And the move is a solid one—and probably one that should be adopted as standard in the future if major bands want to succeed in an age where modern piracy is exclusively technological. It's also a problem labels of major acts are going to have to learn to elegantly sidestep, because no easy solution is presenting itself but to release the album a week or two early.

Moral: you can listen to the new Coldplay album! I'm still going to submit into evidence that ever since daily falling asleep to Parachutes for my afternoon naps years ago, that album remains my favorite, although for about the first year I could never stay awake long enough to hear the last three tracks: a true story.

This album, according to some, is a very important album for Coldplay, the album heralding what's called the "make or break" time. A time I'm not so sure is here. The album is solid, but it doesn't exactly take the band in a new direction. But I like the album and will continue listening to it. I imagine the next album will be the make it or break it album. Others conjecture otherwise.

Ah, enough of me: [just read the article here.](#)

1 comment

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June 11, 2008 at 2:32 am

Mike E.

I remember when Arcade Fire's "Black Mirror" leaked, I was pretty excited about that. And I even still bought the CD when it came out! But I guess not nearly as many people care about them as they do Coldplay.

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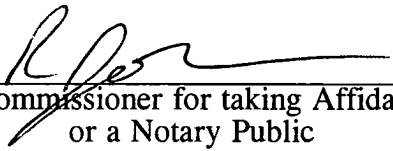
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RIAA sues 532 'John Doe' file swappers

Organization modifies approach following legal defeat

By Paul Roberts, IDG News Service

January 21, 2004

After suffering a legal defeat in December, the Recording Industry Association of America (RIAA) is modifying its approach to pursuing online file swappers, but pushing on with its program to stop illegal file trading with lawsuits, RIAA President Cary Sherman said Wednesday.

The RIAA, an industry trade group representing copyright owners, filed a new round of copyright infringement lawsuits Wednesday against 532 computer users who are allegedly illegally sharing copyrighted material using peer to peer (P-to-P) networks, Sherman said in a telephone press conference to discuss the move.

In contrast to previous rounds of lawsuits, the RIAA filed "John Doe" lawsuits that identify alleged file swappers only by the IP (Internet Protocol) address of the computer sharing the file. The RIAA will file a motion to require ISPs (Internet service providers) that own the addresses to provide the identity of the customers behind the addresses, Sherman said.

Previously, the RIAA used a provision of the Digital Millennium Copyright Act (DMCA) to subpoena ISPs directly, without court oversight, for the names and addresses associated with IP addresses before filing lawsuits. However, in December the U.S. Court of Appeals for the District of Columbia ruled on behalf of Verizon Internet Services, overturning a lower court ruling that allowed the practice.

Verizon argued that the subpoenas threatened customer privacy because they could be issued by a court clerk without oversight by a judge and did not require subsequent legal action by the copyright holder after receiving the subpoenaed information.

The RIAA bundled its case against the 532 swappers into four lawsuits filed in New York and the District of Columbia. Each suit names customers of a different ISP, but defendants could live anywhere in the U.S., Sherman said.

He declined to name the ISPs involved in the suits and took pains to say that illegal file swappers, not ISPs, are the target of the suits.

Only "egregious" file uploaders are named in the suits, which describes individuals whose computers host more than 800 files for download by other P-to-P users, he said. No particular P-to-P network are targets in the lawsuits, he said.

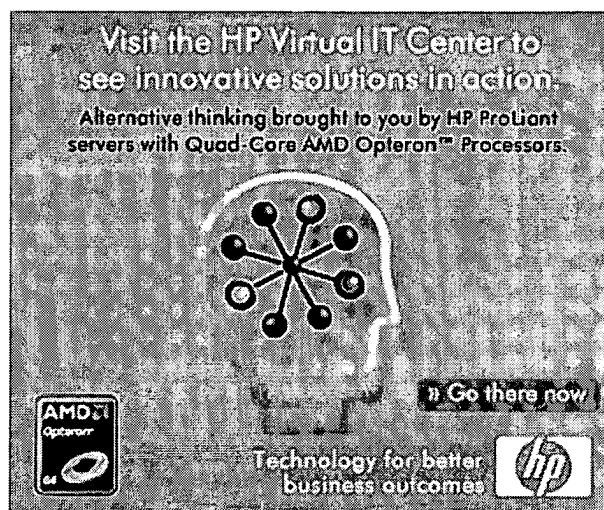
"Lawsuits involve activity on a range of platforms, and we'll proceed against all of them," Sherman said.

The RIAA has not decided whether to continue pursuing its case against Verizon. However, the organization will not abandon similar cases pending in other circuits, Sherman said.

"We obviously disagree with Court's decision in the D.C. circuit. It will be interesting to see if other courts think (U.S. Court of Appeals) Judge Bates was correct," he said.

So far, the RIAA has filed 382 lawsuits. Settlements were reached in 233 of those suits, with agreements in principle reached in another 100, Sherman said.

The average settlement is \$3,000. However, the RIAA may begin asking for larger settlements, as awareness of the legal issues surrounding file-swapping grows and if the RIAA's legal costs grow as a result of decisions like those from the D.C. circuit, Sherman said.



Owners of IP addresses named in the suits may be contacted by the RIAA once their ISP divulges their information to the organization, but before the lawsuit is amended to name them. Previously, before filing lawsuits the RIAA sent letters to those whose information they obtained using the DMCA subpoenas. The December appeals court ruling precludes that, he said.

The announcement of the new lawsuits was preceded by testimonials from those with a stake in the illegal file trading issue who are sympathetic to the RIAA's position.

Mike Negra, owner of Mike's Video of State College, Pennsylvania, said that conversations with his customers lead him to believe that file-sharing is on the retreat, as consumers realize the legal issues involved and parents disallow it on home computers. The message about illegal file-sharing and copyright is being lost on older teenagers and young adults, who believe they should be able to acquire music and movies for free, he said.

Rick Carnes, president of the Songwriters Guild of America, gave a tribute to fellow songwriters, who he said are being pushed out of work because of illegal file-sharing, which he referred to as "online shoplifting." Borrowing a slogan from the National Rifle Association, Carnes defended the RIAA's controversial program to go after file swappers, saying that consumers' attitudes are the problem, not the Internet or P-to-P technology.

"Computers don't steal songs, people do," Carnes said.

The RIAA lawsuits have been effective in educating the public about the legal issues involved with file-swapping and reducing illegal online file sharing in the U.S., according to Mitch Bainwol, RIAA chairman.

According to RIAA polling data, the percentage of people who are aware of the legal issues surrounding file swapping changed from 32 percent to 64 percent in the last year, he said.

Both changes in public awareness of the legal issues surrounding file swapping and the growth of legitimate online music services like Apple Computer's iTunes and Roxio's Napster LLC service are evidence that the RIAA's program is working, he said.



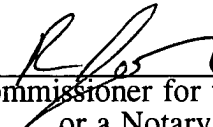
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Destiny Announces Distribution of MP3 Music with ValuSoft, GT Interactive, Walmart - Features New Release by Bill Wyman in Unique Secure MP3 Format

Oct 8, 1999

VANCOUVER, British Columbia - October 8, 1999 - Destiny Software Productions Inc., a wholly owned subsidiary of Euro Industries Ltd. (Pink Sheets: DSNY), is pleased to announce a publishing deal with ValuSoft Inc. A collection of MP3 music will be bundled with the Destiny Media Player™ and will be distributed globally by GT Interactive (NASDAQ: GTIS). Walmart has placed an initial order of 20,000 units, which will be available to consumers by the end of October 1999.

This CD will be the first in a series of MP3 music collections produced by Destiny. Volume 1 of MP3 Jukebox includes a new independent release by Bill Wyman, bass guitarist of the Rolling Stones. This premier release will also feature sixty artists who have partnered with the company. CD's in this series will each contain up to 150 songs in the MP3 format and will sell for \$9.95.

"This is the first MP3 compilation to be sold in the North American retail channels," states Steve Vestergaard, Destiny's CEO. "We expect this title to sell extremely well because of the increasing consumer awareness for the MP3 music format and because we are first to market. We are very pleased to see that a retailer, the caliber of Walmart, sees the potential of this new hybrid category which appeals to both the music and computer software channels."

The Destiny Media Player™ plays CDs, MP3s, .wav and MIDI files and receives internet radio stations broadcasting on the RadioDestiny Broadcast Network™. To date, 6500 broadcasters have registered to use the free broadcast software. This proprietary webcasting technology competes with software offered by Real Networks (NASDAQ: RNWK) and Microsoft (NASDAQ: MSFT). The Destiny Media Player™ and RadioDestiny Broadcaster™ software are available for download from <http://www.radiodestiny.com>.

Destiny Software Productions, Inc. was founded in 1991 as an entertainment software development company. Entertainment software development is provided through the recently acquired subsidiary, Wonderfall Productions, Inc. Telefilm Canada has provided funding to assist development of a multiplayer internet based game which will showcase the company's streaming technologies.

Other products being developed using the Destiny proprietary audio compression format include an internet phone and Java based web audio player, which will be marketed through <http://www.streamingaudio.com>.

About Destiny Media Technologies, Inc.

Destiny Media Technologies, Inc. (<http://www.dsny.com>) is a leader in developing easy-to-use tools and enabling technologies to distribute digital media through the Internet. The company's suite of streaming and downloadable products includes: MPE™ (<http://www.destinympe.com>), a

complete, secure media distribution system that provides e-commerce and digital rights management directly from within an MP3-compatible multimedia file; Clipstream™ (<http://www.clipstream.com>), a java-based tool which enables web pages, e-mail and banners to stream audio without the use of a player; Video Clipstream™ (<http://www.videoclipstream.com>); a technology for embedding streaming video into a web page or e-mail; and the RadioDestiny Broadcaster™ (<http://www.radiodestiny.com>), which allows a user to webcast live or scripted internet radio from a computer to anyone on the Internet. Established in 1991, the company is headquartered in Vancouver, Canada.

For more information contact:

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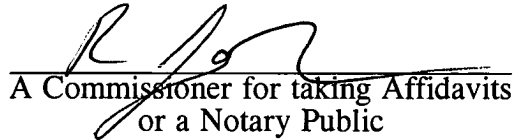
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Rich Media MP3 Player for Nintendo® GameBoy™ Launched at 2000 International CES Show

New encrypted MP3 format with visual metadata created to distribute digital music to over 80 million GameBoy™ users

January 6, 2000 - Destiny Media Technologies, Ltd (DSNYD - Pink Sheets) announced today a working agreement with Songboy, Inc. to license Destiny's rich media, secure MP3 format (MPE). Songboy™ will be previewing a prototype cartridge plug-in for the Nintendo GameBoy™ at the Las Vegas, Consumer Electronics Show on January 6, 2000.

Songboy™ is a digital multimedia player utilizing the Nintendo GameBoy™ unit currently owned by more than 80 million people worldwide. GameBoy™ owners can simply plugin Songboy's module to access music from the internet. Songboy™ has a simple menu with its CD like controls (play, stop, forward, etc.) and all the necessary software to convert a personal music library to digital audio files, which can be downloaded to the player.

Users will be able to download music directly from the Songboy™ website <http://www.songboy.com>. Advertisers will sponsor the first 10,000 downloads of a new song which will be available for free to consumers. Additional copies of the song will be available from the Songboy™ site at low cost. As the music plays, images and advertising will show in the GameBoy Color™ screen.

The Songboy™ transforms the GameBoy™ into a full featured MP3 player similar to the Diamond Rio™ (Nasdaq-SIII), but with the key differential of a visual display screen.

The terms of the working agreement are:

1. Destiny will license their proprietary MPE format for use in the Songboy™ portable GameBoy™ module.
2. Destiny will create, manage and operate the Songboy™ website which will provide for the download of digital music files and secure e-commerce transactions for the sale of digital music and related merchandise.
3. Destiny will develop and license a software version of the Songboy™ hardware. The Songboy™ software is powered with the same MP3 playback engine as the Destiny Media Player™ available at <http://www.radiodestiny.com>.

Using the RadioDestiny Broadcaster™, content owners can create radio stations featuring their own artists. Consumers listen using the Destiny Media Player™, which features both internet radio and MP3 playback. As the music plays, a window will pop up featuring album cover, artwork and lyrics. The consumer will be able to purchase a CD or MPE version of the song.

Destiny Media Technologies, Inc. develops accessible and consumer friendly internet audio technologies based on its proprietary streaming audio format.

Nintendo®, GameBoy™, and GameBoy Color™ are trademarks (™) and/or registered trademarks (®) of Nintendo of America, Inc. Neither Nintendo of America, Inc., or any of its affiliated companies are related to Songboy.com or affiliates or to any developers or manufacturers of the Songboy products or the Songboy website and multimedia player and Nintendo of America, Inc. has not recommended, authorized, endorsed, approved of, or licensed the Songboy or its website and multimedia player. Persons interested in purchasing Nintendo's® GameBoy™ products are encouraged to contact Nintendo® and/or to visit their website at www.nintendo.com

For additional information contact:

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CEO Destiny Media Technologies, Inc.
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P: 604 609 7736 x222
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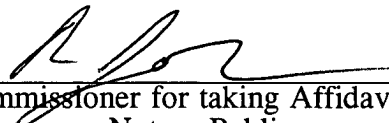
"Safe Harbor" statement under the Private Securities Litigation Reform Act of 1995: This release contains forward looking statements that are subject to risks and uncertainties, including, but not limited to, the impact of competitive products and pricing, product demand and market acceptance, new product development, reliance on key strategic alliances, availability of raw materials, the regulatory environment, fluctuations in operating results and other risks detailed from time to time in the Company's filings with the Securities and Exchange Commission.

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Destiny Media Technologies Meets Milestones for year end

Company reaches key milestones set out in business plan for Year Ending August 31, 2000

Oct 3, 2000

VANCOUVER, BC, Oct. 3, 2000 - Destiny Media Technologies, Inc. (DSNY-OTC BB) is pleased to provide an update of the key accomplishments for the year ended August 31st, 2000 and to highlight some of the targets for the next fiscal year.

Unaudited revenues for the year ending August 31, 2000 show \$110,000 (Cdn). This Q4 revenue is an increase of approximately 1000% over Q3 of the current fiscal year. First quarter revenues for the next fiscal are planned to increase further, as the business plan shifts from the development phase to a more focused sales and marketing effort.

As part of Destiny's accelerated plan to improve business performance in the near term and to capitalize on the company momentum, it has streamlined its head office staffing to increase its emphasis on the sales and marketing function. CEO Steve Vestergaard says "Today's competitive environment demands that we operate our business at maximum efficiency if we are to achieve our target profitability."

This past year Destiny completed and introduced their java based streaming media product suite. The Clipstream™ suite: including Clipstream for web pages, ClipstreamMail™ a streaming media email solution and Bannerstream™ the rich media ad banner, were all well received with over two hundred licensees in place. This bodes well for future upgrade and service revenues in the next several years.

The future potential for Clipstream™ is great as it offers a number of advantages over competing products. It uses industry standard protocols, so any audio file can be archived for playback on existing web hosting company's infrastructure as well as distributed networks such as Akamai. This means Destiny's customers will consistently deliver a scalable high quality streaming service to users any where in the world. Also, because Clipstream is java based, it will be compatible with java enabled wireless devices, thereby allowing the Company to target the future wireless market.

A prototype of VideoClipstream™ was also introduced in Q4 and will be ready for commercial introduction by the end of the 2000 calendar year. Customer demand is strong and the company is planning to establish relationships with resellers and encoding companies in anticipation of the launch.

In the coming year, Destiny plans to more fully integrate their products providing a broader and more cohesive product strategy. A new version of the RadioDestiny Broadcaster™ is currently in Beta and is planned for an October 2000 launch. This new streaming software will provide the industry with Destiny's RD3 format, the highest quality audio stream. In addition the same broadcast will simultaneously stream in MP3 format and in Destiny's java based Clipstream format. Commercial terrestrial stations could use this feature to syndicate their signal across many different web sites.

Destiny will raise the profile of their secure music distribution technology,

MPE™, in the coming months. MPE is a solution to prevent pirating of digital music on the Internet. Says Vestergaard, "We hit a number of milestones last quarter, including a pilot with Atlantic Records recording artist Yve Adam. The digital distribution of electronic music, books, videos and research reports offers a significant opportunity for Destiny in the coming year."

About Destiny Media Technologies, Inc.

Destiny Media Technologies, Inc. (<http://www.dsny.com>) is a leader in developing easy-to-use tools and enabling technologies to distribute digital media through the Internet. The company's suite of streaming and downloadable products includes: MPE™ (<http://www.destinympe.com>), a complete, secure media distribution system that provides e-commerce and digital rights management directly from within an MP3-compatible multimedia file; Clipstream™ (<http://www.clipstream.com>), a java-based tool which enables web pages, e-mail and banners to stream audio without the use of a player; Video Clipstream™ (<http://www.videoclipstream.com>), a technology for embedding streaming video into a web page or e-mail; and the RadioDestiny Broadcaster™ (<http://www.radiodestiny.com>), which allows a user to webcast live or scripted internet radio from a computer to anyone on the Internet. Established in 1991, the company is headquartered in Vancouver, Canada.

For more information contact:

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Destiny Media Technologies Joins the SDMI

June 13, 2000

VANCOUVER, British Columbia -- Destiny Media Technologies, Inc. (DSNY-OTC BB) is pleased to announce that it is joining the SDMI (<http://www.sdmi.org>) as a member of the Perimeter Technologies Working Group. Perimeter technologies are defined as technologies admitted into and exported from SDMI compliant environments. Some of the other companies in this organization include BMG Entertainment, EMI Capitol Music, Sony Music, Universal Music, Warner Music, AT&T (NYSE - T), AOL (NYSE - AOL), Compaq (NYSE - CPQ), Dolby Labs, Lucent (NYSE - LU), Napster, and Sun Microsystems (NASDAQ - SUNW).

Destiny has developed a solution for the recording industry, which facilitates the distribution of digital media. MPE encapsulates an MP3 file with album cover artwork and lyrics into a secure file, which will play itself when clicked on. As part of the Working Group, Destiny will participate in the adoption of a new standard format for the digital encoding of music.

"MPE is the most complete solution to the problem of music piracy on the Internet, and the music industry and artists have been screaming for a solution like this," says Steve Vestergaard, CEO of Destiny Media Technologies. "Our technology allows music to be openly and securely distributed on the Internet, and empowers artists and labels to get the control they need and the money they deserve."

The MPE open beta product is now in operation, with full commercial launch scheduled for June 20. Complete product details, pricing and sample MPE tracks are now available at www.destinympe.com.

MPE is a complete, secure media distribution system, with built-in e-commerce, digital rights management, distribution and visual display. MPE files do not require an external player or any other lengthy downloads, as each file contains an embedded player; MPEs automatically play when clicked on. It works on both PC and Mac platforms, and is a much richer and more powerful marketing tool than any other system on the market today.

According to Vestergaard, there is enormous potential in the digital music distribution business. Industry experts predict the market for digitally distributed music will be valued at \$6 billion by 2005, representing 15% of music sales worldwide.

Artists can include CD covers, lyrics, or other messages in the text and graphics portion of the MPE, while an MP3-based audio track plays along. MPEs can be formatted in a number of ways:

Locked MPEs can provide a short audio preview, visuals and text to promote a purchase. To receive the full file, the consumer must pay for the file and execute an e-commerce transaction that Destiny administers. Free MPEs can be distributed and shared freely, becoming an effective part of a viral marketing program. Sponsored MPEs can be unlocked if the consumer clicks through to a sponsor or advertiser's web site, driving web traffic and creating brand association.

In April, Destiny filed for a patent for the MPE media distribution system,

including the technology supporting the embedded player that drives MPE's "click and play" features. "The potential applications for MPE capture a full range of Internet content and entertainment," says Vestergaard. "MPE supports audio, video, imagery, and text in a self-contained executable. Our first application is the music arena, but some of the other exciting applications we are exploring include feature films, digital books, cartoons, analyst reports and trading cards."

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For more information contact:

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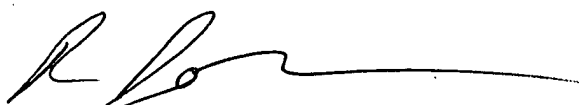
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A handwritten signature in black ink, appearing to read 'R. Johnson', written over a horizontal line.

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Major Broadcasters In North America Embrace Play MPE® as Digital Delivery Standard

With users exceeding 22,000, Play MPE® further solidifies itself as radio's digital delivery choice for new music.

VANCOUVER, BC, JULY 22, 2008 - Destiny Media Technologies' (DSNY OTCBB) Play MPE® digital delivery system continues to dominate as the music industry's digital delivery leader.

Leaders in terrestrial, satellite, and Internet broadcast have made Play MPE® the digital delivery service of preference. Having recently topped over 22,000 users and having serviced over 90,000 tracks, Play MPE® is the most extensively used digital delivery service. Radio programmers in all formats count on Play MPE® for its broadcast quality audio, speed, convenience, and ease of use.

"The business is changing every day and digital music ingestion is made simple with Play MPE...much easier than opening packages, ingesting music and typing in all the required metadata. Play MPE has the quality and info XM needs with a turnkey process...truly a win/win for labels, artists and radio" says *Jon Zellner, Senior Vice President/Music Programming, XM Satellite Radio*

Bobby Leach, Music Services Director at Clear Channel Radio comments, "I would call myself a power user and I appreciate the ease of use. It's always minimized on my desktop and ready to rock. No complicated passwords or login to remember. When the rep fails to send the product, I count on MPE to deliver."

"Play MPE delivers high quality digital tracks from various formats, which comes in handy when you're working for a company that has hundreds of radio stations. It is so quick and easy to use, it makes my job a lot easier" remarks *Seth Neiman, Manager of Digital Content at CBS Radio*

T.J. Lambert, Senior Vice President, Affiliate Relations Worldwide, ABC Radio Networks/ABC Radio International, states "Play MPE is an invaluable resource, especially when dealing with so many affiliates and so many diverse formats. I can find any song I want at the touch of a button, no more digging through piles of CDs that take up space in my office and eventually end up in landfills. The superior audio quality makes it easy for me to stay informed and on top of my game when dealing with our affiliates. Our programming experts love it...they can get a song on-air in a flash!"

"Play MPE is the perfect solution for all of us that wear multiple hats in today's competitive environment. Since there's no software, I can access Play MPE easily, wherever I might be on any given day. Play MPE is an invaluable tool for Envision Radio Networks, our clients, and producers. All of that time that we used to spend hunting for music and chasing down missing overnight packages is now used to create even better production for our programs and services!" says *Danno Wolkoff, President/CEO, Envision Radio Networks*.

Dean Ernst, Play MPE VP of Operations says "Play MPE® is thrilled to have the support and endorsement of these top broadcasters. This further solidifies Play MPE® as the #1 choice for broadcasters and the industry standard for pre-release media delivery."

About Play MPE®

With over 22,000 users and over 88,000 songs from more than 1,000 record labels, including Universal Music Group, EMI Music Group, Sony BMG and Warner Music Group, Destiny's Play MPE® system is the most widely used digital distribution system available to the recording and radio industries. Play MPE® is a secure distribution system that features state-of-the-art encryption to protect content while delivering high definition audio to users in radio, marketing and media. A powerful promotional tool, Play MPE® also allows record companies to distribute video, text and graphics including music videos, CD covers, credits, lyrics, promotions, and other content. More information on Play MPE® can be found at www.plaympe.com

About Destiny Media Technologies

Destiny Media Technologies is a software development company which provides tools that some of the world's largest media companies use to distribute their content on the Internet. Products include Play MPE®, Clipstream® and Radio Destiny(TM).

Company Contact:

Steve Vestergaard CEO Destiny Media Technologies, Inc. 604 609 7736 x222
steve@dsny.com

Safe Harbor Statement:

"Safe Harbor" statement under the Private Securities Litigation Reform Act of 1995: This release contains forward looking statements that are subject to risks and uncertainties, including, but not limited to, the impact of competitive products and pricing, product demand and market acceptance, new product development, reliance on key strategic alliances, availability of raw materials, the regulatory environment, fluctuations in operating results and other risks detailed from time to time in the Company's filings with the Securities and Exchange Commission.

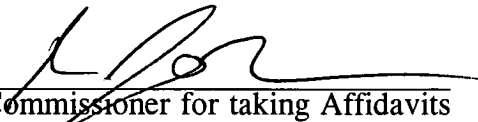
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Management Discussion and Analysis **For the Year Ended December 31, 2007**

At the annual and special shareholders meeting of Musicrypt Inc. held on June 25, 2007 the shareholders of Musicrypt Inc. approved the change of the company's name to YANGAROO Inc. The name change was approved by the TSX Venture Exchange July 16, 2007 and YANGAROO Inc. ("YANGAROO") began trading on the TSX Venture Exchange under the symbol YOO (TSX-V: YOO) and in the USA on the OTCBB under the symbol YOOIF on July 18, 2007.

Musicrypt Inc. was previously listed on the TSX Venture Exchange under the symbol MCT and was traded in the USA on the OTCBB under the symbol MCYPF. Additional information on the company is available at www.yangaroo.com and www.sedar.com.

YANGAROO's address is: Suite 600, 95 Mural Street
Richmond Hill, Ontario L4B 3G2
Phone: 905-763-3553 Fax: 905-763-1180

1) Date of MD&A April 14, 2008.

Note Regarding Forward Looking Statements

This document may contain or refer to certain forward-looking statements relating but not limited to YANGAROO's expectations, intentions, plans and beliefs. Forward-looking information can often be identified by forward-looking words such as "anticipate", "believe", "expect", "goal", "plan", "intend", "estimate", "may" and "will" or similar words suggesting future outcomes, or other expectations, beliefs, plans, objectives, assumptions, intentions or statements about future events or performance. Forward-looking information is based on current expectations that involve a number of business risks and uncertainties. Forward-looking statements are subject to risks, uncertainties and other factors that could cause actual results to differ materially from expected results. Potential shareholders and prospective investors should be aware that these statements are subject to known and unknown risks, uncertainties and other factors that could cause actual results to differ materially from those suggested by the forward-looking statements. Shareholders are cautioned not to place undue reliance on forward-looking information. By its nature, forward-looking information involves numerous assumptions, inherent risks and uncertainties, both general and specific, that contribute to the possibility that the predictions, forecasts, projections and various future events will not occur.

2) Description of Business

YANGAROO is focused on being the leading global provider of secure, user-friendly B2B (business-to-business) digital media distribution via the internet. The principal business objective of YANGAROO is the development and marketing of its patented Digital Media Distribution System ("DMDS") technology solution.

The company's strategy is to use its technology to supplant traditional means of delivering content (such as copying to CD/tapes and delivering via courier) by leveraging the now widely available infrastructure of the high speed internet and evermore powerful desktop computers to enable faster, more secure, less expensive, and environmentally friendly digital content delivery.

DMDS is a web-based delivery system that pioneers secure digital file distribution by incorporating biometrics, high-value encryption and watermarking. DMDS currently replaces the physical distribution of musical recordings and advertising to radio, media, retailers and other authorized

recipients with more accountable, effective and far less costly digital delivery of broadcast quality media via the Internet.

DMDS utilizes YANGAROO's patented Biometric Rights Management ("BRM") technology to authenticate the recipient of, and grant specified access rights to, the media being distributed. BRM is a unique combination of biometrics, high-value encryption and digital rights management. This biometric verification system identifies the recipient by his or her user name, password and distinctive personal characteristics. The biometric technology currently deployed in DMDS is keystroke dynamics, which identifies a user by their typing rhythm. BRM technology works to prevent unauthorized access and password sharing by verifying individual recipients, and requires no additional hardware for either the sender or the recipient, providing completely portable secure access to users.

The Canadian Record Industry used DMDS to become the world leader in the transition to digital delivery of promotional recordings to radio, internally and to other destinations such as consultants, managers, artists, satellite radio, internet radio, media, and reviewers.

In the US and Europe, where record labels have been primarily delivering promotional releases to radio stations using traditional methods, the record industry is now moving to digital delivery. The traditional methods require the pressing of promotional CD's (known in the industry as CD-PRO's) then packaging, labelling, and sending these with related printed materials by mail or courier to radio and other destinations. This is very costly, time consuming, insecure and harmful to the environment.

In recent years, leaks of new singles by superstar artists such as Britney Spears, Lenny Kravitz, Radiohead, U2, Madonna and Justin Timberlake before their planned public launch dates underscored the need for improved security for new releases. Further, increasing financial pressures in the record business are leading them to look for ways to reduce costs.

Similarly, the advantages of DMDS can be obtained for the distribution of audio advertising to radio stations. DMDS puts the control of when and to whom radio ads are distributed directly in the hands of the advertising firm. DMDS can provide significant costs savings, greater efficiencies, direct control, and individual accountability compared to the distribution of radio ads on either CD's, FTP or satellite based systems. YANGAROO is also adapting DMDS with the goal of providing these same benefits for the distribution of music videos and TV commercials, which also offer attractive market opportunities for the company.

3) Selected Annual Information

The table below shows selected financial information for the three most recent fiscal years ended December 31.

\$	2007	2006	2005
Revenue	524,956	430,142	296,152
Loss	2,665,159	2,113,587	2,061,976
Loss per share	0.04	0.07	0.09
Total assets	8,467,927	1,640,431	1,911,692

The company has no long term financial liabilities and has not declared any dividends on its shares.

4) Review of Results of Operations for the Year Ended December 31, 2007

In 2007 YANGAROO achieved its' fifth consecutive year of revenue growth and had the highest year end cash balance in its history. Revenues for the year ended December 31, 2007 were 22% higher than revenues for fiscal 2006, due to increased use of DMDS by existing customers and the addition of new domestic and international customers. Cash and cash equivalents were \$6,497,000 at December 31, 2007, considerably higher than at the end of 2006 (\$72,000), or in any preceding years.

The loss for 2007 increased 26% from 2006, which was mainly a result of higher total expenses, which increased by \$913,000 (36%). The company utilized funds from the financing completed in February 2007 to reinforce areas that were previously under-resourced due to funding constraints. The higher total expenses are primarily due to planned increases in operating expenses, which came in under the budgeted target for 2007.

The majority of the increase in operating expenses in 2007 stemmed from the company's planned augmentation of its human resources and from continuing to enforce and expand its intellectual property rights. In 2007, the salaries and consulting expense for the company increased \$498,000 (35%) from 2006, and expenses related to protection of intellectual property rights, which are classified under general and administrative expense, increased \$173,000 (218%). Expenditures related to asserting the company's intellectual property rights are a non-recurring operating expense, as it is expected that these will not be necessary once the matter under litigation is resolved.

The bulk of the increase in salaries and consulting expense occurred in the technology department, where it rose by \$230,000 (159%) in 2007. The company commenced bolstering its technology team with necessary human resources in late 2006, adding two developers and a technical support representative. In the second quarter of 2007 the company recruited a Director of Engineering and a graphic designer, and in the fourth quarter added a developer and a quality assurance person. These additions, which were needed to support the company's growth, doubled the number of personnel in the technology and support team by the fourth quarter of 2007, resulting in the higher salaries and consulting expense. A reduced rate of capitalization for technology salaries as deferred development costs, reflecting work related to non-capital maintenance of previously released products, also contributed to the increase in this expense.

The salaries and consulting expense for general and administration rose by \$157,000 (25%) mainly as a result of an increase in salaries and wages of \$116,000 (33%), a \$45,000 expense for directors' fees which were recognized for the first time in 2007, and consulting fees that were higher by \$51,000 (47%). These increases were offset by a \$70,000 (50%) reduction in stock option expense in the year.

The sales and marketing department had a higher salaries and consulting expense for 2007, increasing by \$111,000 (21%). Additions to the company's in-house and consulting human resources for sales and marketing led to salaries and wages rising \$79,000 (66%) and consulting fees increasing \$67,000 (18%). These were partly offset by a stock option expense that was \$42,000 lower in 2007 for sales and marketing.

General and administrative expenses increased \$307,000 (72%) in 2007, the majority of which was attributable to the \$173,000 increase in expenses related to the protection of intellectual property rights mentioned above. Also affecting this expense were corporate legal services fees rising by \$56,000; recruiting fees from the addition of human resources that rose \$26,000; \$20,000 higher rent for larger premises; and \$17,000 higher listing fees.

Marketing and promotion expenses increased \$85,000 (36%) in 2007 from 2006 because of greater travel costs for meeting international customers and partners, conference attendance, higher promotional and advertising activity; and enhanced public relations efforts.

In 2007 technology development expense increased \$69,000 (171%) over 2006 primarily due to higher technology license costs and increased network management expenses. Total expenditures on technology development in 2007 were \$550,000, of which \$109,000 was expensed and \$441,000 was capitalized. Amortization expense increased \$105,000 (39%) due to that higher technology asset balances in 2007 that are subject to amortization.

The company met the deferral criteria for development costs under generally accepted accounting principles as the company is generating increasing revenues from the product and technology it has developed. During 2007 \$441,000 of product development costs were capitalized (2006 - \$446,000) and \$216,000 was amortized (2006 - \$133,000).

On February 6, 2007 YANGAROO completed a financing for gross proceeds of \$10 million (net proceeds \$9,113,000) through Sprott Securities Inc. (now Cormark Securities Inc.) with the sale of 40,000,000 common shares at a price of \$0.25 per share. The company utilized this funding to make the substantial progress achieved throughout the balance of 2007.

In April 2007, Warner Bros. Records of Los Angeles chose DMDS to deliver superstar artist Linkin Park's new single "What I've Done" to radio stations across the United States exclusively via DMDS. This historic delivery marked the first time that a major record label in the US has released a new superstar single entirely by digital means to radio, thereby eliminating the major expense of producing and shipping physical CDs. The song debuted at #1 on the BDS and Mediabase Alternative charts the same week it was released, confirming the effectiveness of DMDS as a promotional distribution tool.

In the second quarter of 2007 the company successfully applied for and received approval to be listed as a Tier 1 company on the TSX Venture Exchange. Tier 1 is the most senior level on the TSX Venture Exchange, providing listed companies with the benefits of regulations and governance that are similar to those of the Toronto Stock Exchange.

The success of the Linkin Park release via DMDS led Warner Bros. and Reprise Records to entrust DMDS exclusively with the subsequent release of superstar artist Green Day's "Working Class Hero" in a digital only format to radio stations. These successes have led Warner Bros. and Reprise to use DMDS for virtually all of their major releases.

Through late winter and spring of 2007 the company successfully used its patent and market share advantages to defend the Canadian market from an attempted and abortive re-entry by a competitor. YANGAROO had previously won the Canadian market over the competitor and others, prior to the granting of any of the company's patents.

In May the company reported that first quarter revenue rose by 40% compared to the first quarter of 2006 while US delivery volumes in the same period were up 700%.

In June the company completed renegotiation its biometric technology license, resulting in the removal of all market scope limitations and the replacement of a 5% revenue royalty with a lower cost per user license structure.

In the summer of 2007 YANGAROO launched the first phase of its radio advertising delivery service with the support of Los Angeles based Universal Music Group and The Gary Group, the largest advertising agency to the recording industry in the United States, with the first billable deliveries of radio advertising commencing in August 2007.

In July the company embraced a new corporate identity as YANGAROO Inc., which reflects the company's vision of being the global standard in secure B2B digital media delivery. This exciting new name will help the company to communicate with the many new markets for its products beyond the music industry.

During the second quarter the company refined the management team by recruiting a Senior Vice President Sales and adding of a Director of Engineering. Subsequently the company bolstered its technology team by adding a graphic designer in the second quarter, and in the third quarter a developer and quality assurance engineer. In conjunction with this the company moved to expanded premises and upgraded the system infrastructure for DMDS in order to accommodate current and future growth.

The company continued to make progress with the successful examination of its second US patent application No. 10/431,854 titled "Content Distribution System and Method" through 2007. This is same application that the company has been granted patent #2,407,774 for in Canada. Management is optimistic that this US application will result in a patent being granted, just as it did in Canada, which would provide a barrier to entry against competitors in the US market.

The company continued to actively prosecute its Canadian patent infringement claim against a competitor, Destiny Media Technologies Inc., and its partners and to defend the concomitant action regarding the validity of its patent. Examinations for discovery of the company's and the competitor's executives have taken place and undertaking responses filed. The company has also examined for discovery the president of the competitor's former marketing partner, Promo Only Inc. The company firmly believes that it will prevail in this action to assert its Canadian patent rights. The company has filed a claim for damages for infringement of \$15 million against Destiny Media Technologies Inc. and its partners.

Usage of DMDS by the US music industry accelerated through 2007. The one million US delivery threshold was achieved in October 2007, marking an historic milestone in the company's growth. US deliveries in the month of October alone were 211,000, a number that exceeded the total volume for the entire first six months of 2006. Over 60% of the October 2007 volume was from major label use of DMDS.

In September the company began a campaign to emphasize the environmental benefits of using DMDS. As the US delivery volumes above show, millions of CD's and the associated printed materials, packaging and transportation can be supplanted by digital delivery. The environmental impact of promotional music distribution can be significantly reduced through the use of DMDS.

In November the composition of the board changed when Mr. Len Gill resigned from and Mr. Howard Atkinson joined the company's board of directors. Howard Atkinson is a CFA and CIMA, and is President of BetaPro Funds Management Inc., where he focuses on management of the Horizons BetaPro Funds and Exchange Traded Funds. He brings 20 years of investment management industry experience to the board.

In December the company announced an agreement with INDIE911, one of the world's largest and fastest growing aggregators of independent music. INDIE911, based in Hollywood, California,

features over 45,000 artists and labels, some 250,000 song and film titles, and 50,000 members, with close to four million monthly page views. INDIE911 will offer DMDS to its members, providing digital delivery of their music and promotional materials directly to radio stations across North America.

Also in December, the company announced two additions to its product offerings. DMDS BURN brings watermarked CD burning to the desktop, and Agentless Ad Delivery enables web-based access to DMDS for radio ad spots, eliminating the need to download the DMDS Agent. DMDS BURN, created in response to client needs, allows clients to use their DMDS Agent to produce audio CDs at their desktop that are individually watermarked with any data the user specifies. The entire process can be done in a few minutes, with the watermark data embedded into a CD quality audio file. Currently, record labels either have to purchase very expensive watermark burning hardware, or ship the tracks out to an external service to complete this task. Both of these alternatives are inefficient and time consuming.

Agentless Ad Delivery increases portability and expedites access to DMDS by allowing for radio ad spots and traffic details to be downloaded from any Internet-connected PC or Mac, anywhere in the world. Agentless Ad Delivery builds on the inherent portability of the DMDS technology which ensures security by linking a password to a specific person and not a computer or IP address. Clients can now securely download radio spots using DMDS without the need to download and install the DMDS agent software.

At the end of the fourth quarter of 2007 DMDS was the de-facto standard for B2B (business to business) digital delivery of new music files for the record and radio industry in Canada. No competitor's system was in commercial use at any major record label in Canada and usage of DMDS within the fast growing independent music sector continues to expand. DMDS is the only system that can deliver music internationally across the US, Canada and the UK.

By December 31, 2007, the volume of US deliveries made by DMDS in 2007 had increased 266% over 2006 to 1.3 million. US deliveries for the third quarter alone exceeded 300,000, a first for quarterly volumes. In the fourth quarter of 2007 the number of US deliveries made on DMDS doubled over the fourth quarter of 2006 to 437,000. These volumes demonstrate that the rate of adoption of DMDS in the US record and radio industries is growing at a rapid pace. The company expects to build and monetize this usage into additional revenues.

In January 2008 the company bolstered its management team with the appointment of Richard Klosa as Chief Technology Officer (CTO). Wojtek Hoch left the position of Vice President Technology after five years with company to pursue other opportunities. Richard Klosa brings more than a decade of technology development and management experience as an entrepreneur and digital media innovator to the company. In his previous role as Chief Technology Officer and Co-Founder of J!VE Media Technologies Inc., Richard led his team to a 2002 Canadian New Media Award for 'Most Promising Company' and recognition from the Branham Group as one of the Top 25 Up and Comers. More recently, as the Vice President of Technology at Cubic Health Inc., Richard architected and led the development of the 'Cubic Health Canadian Drug Database™', a comprehensive reporting and analytics system designed to aid Canadian employers in managing their prescription drug benefit. Richard graduated from Ryerson University's Radio & Television arts program with an Honours B.A.A., is a certified PMP and Solutions Developer and has authored "Building A Working Revenue Model For The Digital Distribution Of Copyrighted Media". Richard is a highly regarded technologist whose thoughts and opinions are sought for multiple TV shows (ROB TV, Media TV, CP24), newspaper articles, and online publications.

To date DMDS has made over five million deliveries of over 11,000 songs from more than 500 record labels to destinations which include radio stations representing over 35 US broadcast chains such as CBS/Infinity, Citadel, Clear Channel, Cox, Cumulus, Emmis, EntreVision, Entercom, Federated Media, Sirius, Journal, DMX, Jones Radio, AOL, Music Choice, Radio One, Salem Communications, Univision, Westwood One, Regent, Premiere Radio, Next Media, XM Satellite Radio, Waitt Media and many others. All of these deliveries have been made without a single leak being reported.

5) Review of Results for the Fourth Quarter Ended December 31, 2007

Revenue for the fourth quarter of 2007 was \$138,000, 11% higher than the revenue for the fourth quarter of 2006. Revenues increased as a result of greater use of DMDS by existing customers and billings to new customers, especially in the independent sector. Revenue is expected to continue to increase as billable US music deliveries grow, independent sector usage increases, European music delivery revenues begin to flow and advertising delivery volumes rise.

The loss for the fourth quarter of 2007 was \$852,000, 74% (\$362,000) more than last year's fourth quarter. The increase in the loss was primarily from planned increases in operating expenses, which were under budget for the fourth quarter as well as for the year.

Total expenses in the fourth quarter of 2007 increased largely due to the increase in salaries and consulting expense of \$252,000 (71%) compared to last year's fourth quarter. This reflects the planned addition of human resources that were brought on board to execute the company's business plan. The company bolstered its technology team from late 2006 through 2007, doubling the number of personnel in the technology and support team by the fourth quarter of 2007, which accounts for the majority of the increase in salaries and consulting expense in the fourth quarter. A reduced rate of capitalization for technology development salaries as deferred development costs, reflecting work related to non-capital maintenance of previously released products, also contributed to the increase in this expense. The sales and marketing in-house team and consulting were augmented in 2007, which added to fourth quarter salaries and consulting expense. In the fourth quarter of 2007 \$11,000 of the expense recognized for salaries and consulting was for the non-cash expense recognized for options, compared to \$33,000 for the same period last year.

The second largest expense item increase for the fourth quarter of 2007 was in general and administrative expense of \$117,000 (137%), primarily a result of costs related to enforcing the company's patent rights.

The marketing and promotion expense increased by \$45,000 (82%) in the fourth quarter due to increased promotional, public relations and advertising activities. Royalty expense was \$38,000 (100%) lower, as a result of the renegotiation of the technology license to eliminate the royalty obligation. Interest income rose by \$68,000 in the fourth quarter of 2007 due to the interest revenue earned from the funds received from the financing completed in February 2007. Amortization expense increased by \$44,000, reflecting higher technology asset balances.

The commercial acceptance of the company's product (DMDS) by the marketplace indicates that expenditures for product development should be recognized as an asset because these are expected to yield future economic benefits. Accordingly, in the fourth quarter of 2007 \$110,000 of product development costs were capitalized (2006 - \$112,000) and \$76,000 was amortized (2006 - \$42,000).